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Presidential Documents

Title 3—

The President

Proclamation 9274 of May 6, 2015

National Day of Prayer, 2015

By the President of the United States of America

A Proclamation

When women and men of all backgrounds and beliefs are free to practice their faiths without fear or coercion, it bolsters our religious communities and helps to lift up diverse and vibrant societies throughout our world. In America, our Nation is stronger because we welcome and respect people of all faiths, and because we protect the fundamental right of all peoples to practice their faith how they choose, to change their faith, or to practice no faith at all, and to do so free from persecution and discrimination. Today, as we pause in solemn reflection, we celebrate the religious liberty we cherish here at home, and we recommit to standing up for religious freedom around the world.

For many of us, prayer is an important expression of faith—an essential act of worship and a daily discipline that allows reflection, provides guidance, and offers solace. Through prayer we find the strength to do God's work: to feed the hungry, care for the poor, comfort the afflicted, and make peace where there is strife. In times of uncertainty or tragedy, Americans offer humble supplications for comfort for those who mourn, for healing for those who are sick, and for protection for those who are in harm's way. When we pray, we are reminded that we are not alone—our hope is a common hope, our pain is shared, and we are all children of God.

Around the globe, too few know the protections we enjoy in America. Millions of individuals worldwide are subjected to discrimination, abuse, and sanctioned violence simply for exercising their religion or choosing not to claim a faith. Communities are threatened with genocide and driven from their homelands because of who they are or how they pray. The United States will continue to stand against these reprehensible attacks, work to end them, and protect religious freedom throughout the world. And we remember those who are prisoners of conscience—who are held unjustly because of their faiths or beliefs—and we will take every action within our power to secure their release.

In the face of tremendous challenges, prayer is a powerful force for peace, justice, and a brighter, more hopeful tomorrow. Today, as we join together in fellowship, we seek to see our own reflection in the struggle of others, to be our brothers' and sisters' keepers, and to keep faith—in one another, in the promise of our Nation, and in the Almighty.

The Congress, by Public Law 100–307, as amended, has called on the President to issue each year a proclamation designating the first Thursday in May as a ''National Day of Prayer.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 7, 2015, as a National Day of Prayer. I invite the citizens of our Nation to give thanks, in accordance with their own faiths and consciences, for our many freedoms and blessings, and I join all people of faith in asking for God's continued guidance, mercy, and protection as we seek a more just world.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–11402
Filed 5–8–15; 8:45 am]
Billing code 3295–F5

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 107

[Docket No. APHIS–2011–0048]

RIN 0579–AD66

Viruses, Serums, Toxins, and Analogous Products; Exemptions From Preparation Pursuant to an Unsuspended and Unrevoked License

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations to require that veterinary biologics prepared under the veterinary practitioner exemption must be prepared at the same facility the veterinarian utilizes in conducting the day-to-day activities associated with his or her practice. This exemption applies to veterinary biologics prepared by a veterinary practitioner solely for administration to animals in the course of a State-licensed professional practice of veterinary medicine under a veterinarian-client-patient relationship. This rule is necessary to ensure that veterinary biologics are not prepared in unlicensed establishments in violation of the Virus-Serum-Toxin Act and to clarify the regulations regarding the preparation of product by a veterinary practitioner under a veterinarian-client-patient relationship.

DATES: Effective July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; phone (301) 851–3426, fax (301) 734–4314.

SUPPLEMENTARY INFORMATION:

Background

The regulations in Title 9, Code of Federal Regulations (9 CFR), parts 101–118 (referred to below as the regulations) contain provisions implementing the Virus-Serum-Toxin Act (the Act), as amended (21 U.S.C. 151–159). These regulations are administered by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA). The Act prohibits the preparation, sale, and shipment of veterinary biological products in or from the United States unless such products have been prepared under and in compliance with USDA regulations at an establishment holding an unsuspended and unrevoked license issued by USDA.

In part 102 of the regulations, §§ 102.1 and 102.2 require that each establishment and every person preparing biological products subject to the Act must hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biologics Establishment License issued by the Administrator and a U.S. Veterinary Biological Product License for each product prepared in such establishment. Part 107 of the regulations contains exemptions from the requirement for preparation pursuant to unsuspended and unrevoked establishment and product licenses. One of those exemptions, found in § 107.1(a)(1), allows for product to be prepared by a veterinary practitioner solely for administration to animals in the course of his or her State-licensed professional practice of veterinary medicine under a veterinarian-client-patient relationship. The regulations in § 107.1(a)(1) also set forth the criteria that must be satisfied in order to establish the existence of a veterinarian-client-patient relationship.

On July 18, 2012, we published in the **Federal Register** (77 FR 42195–42197, Docket No. APHIS–2011–0048) a proposal [1] to amend the regulations to require that veterinary biologics prepared under the veterinary practitioner exemption be prepared at the same facility the veterinarian utilizes in conducting the day-to-day activities associated with his or her practice. The proposal was intended to ensure that veterinary biologics are not prepared in unlicensed establishments in violation of the Virus-Serum-Toxin Act and to clarify the regulations regarding the preparation of product by a veterinary practitioner under a veterinarian-client-patient relationship.

We solicited comments concerning our proposal for 60 days ending September 17, 2012. We reopened and extended the deadline for comments until November 16, 2012, in a document published in the **Federal Register** on September 20, 2012 (77 FR 58323, Docket No. APHIS–2011–0048). We received 55 comments by that date. They were from veterinarians and veterinary associations, several State universities, pork producers' associations, trade organizations, veterinary biologics companies, private laboratories, aquaculture companies, officials from the State of Iowa, and individuals. These comments are discussed below by topic.

Some commenters not only supported the proposal but recommended that we speed the implementation process along.

We are finalizing this rule as expeditiously as possible. Given the number of comments we received on the proposed rule and the substantive nature of most of them, however, we determined that we needed to carefully review and evaluate those comments before implementing any regulatory changes.

Several organizations and a number of veterinary practitioners raised concerns about what they termed the ''forced relocation'' of preparation sites for veterinary biologics to the same facility in which the veterinarian conducts day-to-day activities connected with his or her practice. Commenters stated that a veterinary practice is an environment poorly suited to the aseptic conditions required for biologics production and that personnel working in these facilities are trained in animal care rather than in specialized laboratory work. Several commenters recommended that APHIS revise the rule to require that, regardless of the location of the production facility, veterinarians that use the facility must document regular involvement in the management of the facility, provide such documentation on request, and allow regular on-site inspections, presumably by APHIS.

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0048.*

APHIS disagrees with the commenters' recommendation. As noted in the preamble to the July 2012 proposed rule, the intent of the veterinary practitioner exemption in § 107.1(a)(1) is to allow a practitioner to prepare exempt biological products at a location not licensed under the Act, where the practitioner operates a veterinary practice, and to transport such products away from that facility when necessary for administration to an animal or animals under a veterinarian-client-patient relationship without violating the Act. The intention behind the proposed rule was to clarify the relationship between the veterinary practitioner and the facility where exempt veterinary biological product is prepared. No provision in the Act or the regulations allows an unlicensed commercial laboratory, acting as the agent for the practitioner, to prepare, produce, sell, and ship the veterinary biological product under the exemption in § 107.1(a)(1). Such an arrangement would violate the Act. Nothing in this rule or in the Act, however, prevents veterinarians from working with establishments with a license to produce autogenous products, *i.e.,* limited use biologics.

Commenters expressed concern about how this rule would affect practitioners who have offices in multiple locations in which there are multiple practitioners. It was stated that changes within the swine industry have led many veterinarians to practice in this manner. According to the commenters, this rule would potentially require that a ''brick and mortar'' location for vaccine production would have to be the same as the physical location of the veterinarian. In the commenters' view, such a requirement could prove problematic for a multi-location veterinary practice in which there may only be one location suitable for the preparation of exempt veterinary biological product. Commenters questioned how we would address the issue of multiple locations managed by the same veterinarian or practice even though the prescribing veterinarian may not routinely work out of the office where the exempt biological product is prepared.

APHIS acknowledges that it has become a common occurrence in the swine industry for swine practitioners to work in multi-veterinarian, multi-location corporate practices. Nothing in this rule, however, prohibits a veterinarian from producing an exempt biological product in any of the locations routinely used in his or her day-to-day practice, provided that the other conditions in § 107.1 are met.

Noting that § 107.1(a)(2) of the proposed rule stated that a biological product may be prepared by a veterinary assistant under the veterinarian's ''direct supervision,'' some commenters, while generally supportive of the rule, requested that we clarify how we define that term.

APHIS interprets ''direct supervision'' to mean that the licensed veterinarian is readily available on the premises where the product is being prepared and has the responsibility for its preparation by the assistant working under his or her direction.

Some commenters suggested that the emphasis of the rule should be redirected away from location of the exempt facilities and toward the quality and management of the facilities where the products are prepared. It was stated that the rule focuses too much on location and not enough on animal health.

As noted above, the purpose of this rule is to clarify who may prepare exempted biological products and where those exempted products may be prepared under the regulations. Requirements pertaining to the quality and management of veterinary biologics establishments are already addressed in 9 CFR part 108.

Some commenters maintained that unlicensed laboratories should be allowed to prepare and ship exempt veterinary biological products on behalf of veterinary practitioners, that the rule may hinder innovative practices, and that the relationship between the veterinarian and the facility should be legal rather than location-based. The commenters expressed concern that the rule will restrict veterinarians' access to certain customized vaccines that are prepared in specialized settings and thus prevent practitioners from responding rapidly to mutating viruses. Several commenters cited the case of an Iowa manufacturer, which they viewed as an innovative company with expertise in new technologies that enabled it to prepare vaccines quickly and effectively. The commenters stated that that company's activities may be restricted under this rule.

The purpose of this rule is to clarify the relationship between the veterinary practitioner and the facility where exempt veterinary biological products are prepared. We do not intend to hinder innovation and the development of valuable new technologies, nor do we anticipate that this rule will have such an effect. Any manufacturing establishment wishing to provide its technology and expertise to veterinarians has several licensing options that will allow it to market its product. To cite one example, in 2012, APHIS published guidelines for obtaining a conditional veterinary biologics license using production platform technology. These guidelines, which describe the policies and procedures regarding the licensure of product platforms based on recombinant technology, can be viewed at *http://www.aphis.usda.gov/animal_health/vet_biologics/publications/memo_800_213.pdf.*

Some commenters expressed concerns about how this rule may affect minor species, in particular, the aquaculture industry. It was stated that the language contained in the proposed rule was too restrictive, as it was based on an erroneous assumption of a homogenous type of veterinary practice involving mainly major species where there is only in-patient or on-the-farm care. Veterinary practitioners in the aquaculture industry routinely prepare autogenous vaccines, which may be isolated from a particular school of fish. A commenter stated that for minor species and minor indications, it is not cost-effective to have separate facilities for the preparation of existing exempt vaccines and autogenous vaccines. The commenter recommended that, for minor species applications, we add a provision to the final rule allowing the production of exempt biological products in a veterinary establishment that has either full or autogenous licensure to produce biologics, provided that the practitioner can demonstrate temporal and sanitary separation between exempt and non-exempt products.

We do not agree that adding such a provision to the regulations is necessary. This rule does not affect the preparation of exempt veterinary biological product for minor species, such as farmed fish; it merely clarifies where such products can be prepared. Veterinarians who service minor species will continue to have the options currently available to them of preparing an exempt product or working with a licensed establishment to produce an autogenous vaccine.

The July 2012 proposed rule included some additional changes to § 107.1. Specifically, we proposed to replace the term ''establishments'' with ''facilities'' in the introductory text and in paragraph (a)(1). One commenter favored retaining the original terminology. The commenter stated that ''facilities'' is too narrow a term and that, conversely, ''establishments'' correctly reflects many of the types of operations that licensed veterinarians are associated with (ambulatory, zoos,

aquarium, fish culture facilities, feedlots, etc.).

We do not agree with this comment. The reason for the proposed change in terminology was to distinguish between manufacturers that produce licensed biological products in licensed establishments and those that produce exempt veterinary biological products under the conditions described in § 107.1. The introductory text of § 107.1 contains a reference to establishment licenses. Elsewhere in the regulations, including § 107.2, only production sites that are not exempt from licensing requirements are referred to as establishments. Drawing a clear distinction between establishments, where vaccines are prepared in accordance with our licensing requirements, and facilities, where exempt products are produced, helps to clarify the regulations and eliminate possible confusion.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule amends the regulations in § 107.1 to clarify that the preparation of biological products pursuant to the exemption in paragraph (a)(1) of that section must take place at the same facility that the veterinarian preparing the product utilizes in conducting the day-to-day activities associated with his/her State-licensed professional practice of veterinary medicine.

The exemption applies to veterinary biologics prepared by a veterinary practitioner solely for administration to animals in the course of a State-licensed professional practice of veterinary medicine under a veterinarian-client-patient relationship. No provision in the Act or the regulations allows a veterinary practitioner to take advantage of the licensing exemption while at the same time consigning the actual preparation of the product to a commercial laboratory or other manufacturing establishment which would then exchange or deliver the product to a third party.

The Regulatory Flexibility Act requires agencies to consider whether a rule will have a significant economic impact on a substantial number of small entities.

Some commenters on the July 2012 proposed rule expressed concerns that the rule would adversely affect how veterinary practitioners conduct day-to-day activities connected with their practices, prevent veterinarians from working with commercial labs or manufacturing facilities in preparing vaccines, and hinder the development of innovative practices.

For the most part, there should be little or no effect on veterinary practitioners. Veterinary practitioners who are in compliance with the regulations do not need to alter the way they conduct their veterinarian-client-patient relationships. This final rule will not change the nature of the exemption, the number of veterinary practitioners eligible to take advantage of the exemption, or the criteria that must be satisfied in order to establish the existence of a veterinarian-client-patient relationship. Also, this final rule will not add any additional reporting or recordkeeping burden.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies where they are necessary to address local disease conditions or eradication programs. However, where safety, efficacy, purity, and potency of biological products are concerned, it is the Agency's intent to occupy the field. This includes, but is not limited to, the regulation of labeling. Under the Act, Congress clearly intended that there be national uniformity in the regulation of these products. There are no administrative proceedings which must be exhausted prior to a judicial challenge to the regulations under this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 107

Animal biologics, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 107 as follows:

PART 107—EXEMPTIONS FROM PREPARATION PURSUANT TO AN UNSUSPENDED AND UNREVOKED LICENSE

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 107.1 is amended as follows:

■ a. In the introductory text of the section and in paragraph (a)(1), introductory text, by removing the word ''establishments'' both times it appears and adding the word ''facilities'' in its place; and

■ b. By redesignating paragraph (a)(2) as paragraph (a)(3) and adding a new paragraph (a)(2).

The addition reads as follows:

§ 107.1 Veterinary practitioners and animal owners.

* * * * *

(a) * * *

(2) All steps in the preparation of product being prepared under the exemption in paragraph (a)(1) of this section must be performed at the facilities that the veterinarian utilizes for the day-to-day activities associated with the treatment of animals in the course of his/her State-licensed professional practice of veterinary medicine. A veterinary assistant employed by the veterinary practitioner and working at the veterinary practice's facility under the veterinarian's direct supervision may perform the steps in the preparation of product. Such preparation may not be consigned to any other party or sub-contracted to a commercial laboratory/manufacturing facility.

* * * * *

Done in Washington, DC, this 6th day of May 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–11311 Filed 5–8–15; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Part 620

RIN 3052–AD02

Disclosure to Shareholders; Pension Benefit Disclosures

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA or we) adopted a final rule related to Farm Credit System (System) bank and association disclosures to shareholders and investors of senior officer compensation in the Summary Compensation Table (Table). Under the final rule, System banks and associations are not required to report in the Table the compensation of employees who are not senior officers and who would not otherwise be considered ''highly compensated employees'' but for the payments related to, or change(s) in value of, the employees' qualified pension plans, provided that the plans were available to all employees on the same basis at the time the employees joined the plans. In accordance with the law, the effective date of the rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session.

DATES: *Effective Date:* Under the authority of 12 U.S.C. 2252, the regulation amending 12 CFR part 620 published on February 26, 2015 (80 FR 10325) is effective April 29, 2015.

Compliance Date: System banks and associations must comply with the final rule for compensation reported in the Table for the fiscal year ending 2015, and may implement the final rule retroactively for the fiscal years ended 2014, 2013, and 2012. However, retroactive application is not required, and we would expect footnote disclosure of the change in calculation for the fiscal years to which the final rule was applied.

FOR FURTHER INFORMATION CONTACT: Michael T. Wilson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4124, TTY (703) 883–4056, or Jeff Pienta, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration adopted a final rule related to System bank and association disclosures to shareholders and investors of senior officer compensation in the Summary Compensation Table. Under the final rule, System banks and associations are not required to report in the Table the compensation of employees who are not senior officers and who would not otherwise be considered ''highly compensated employees'' but for the payments related to, or change(s) in value of, the employees' qualified pension plans, provided that the plans were available to all employees on the same basis at the time the employees joined the plans. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is April 29, 2015.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 5, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–11286 Filed 5–8–15; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2003–14766; Amendment No. 91–327A; SFAR No. 77]

RIN 2120–AK60

Prohibition Against Certain Flights Within the Baghdad (ORBB) Flight Information Region (FIR)

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

ACTION: Final rule.

SUMMARY: This action amends Special Federal Aviation Regulation (SFAR) No. 77, ''Prohibition Against Certain Flights Within the Territory and Airspace of Iraq,'' which prohibits certain flight operations in the territory and airspace of Iraq by all United States (U.S.) air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered civil aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. On August 8, 2014, the FAA issued a Notice to Airmen (NOTAM) prohibiting flight operations in the ORBB FIR at all altitudes, subject to certain limited exceptions, due to the armed conflict in Iraq. This amendment to SFAR No. 77 incorporates the flight prohibition set forth in the August 8, 2014, NOTAM into the rule. The FAA is also revising the approval process for this SFAR for other U.S. Government departments, agencies, and instrumentalities, to align with the approval process established for other recently published flight prohibition SFARs. This final rule will remain in effect for two years.

DATES: This final rule is effective *May 11, 2015* through *May 11, 2017.*

FOR FURTHER INFORMATION CONTACT: For technical questions about this action, contact Will Gonzalez, Air Transportation Division, AFS–220, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8166; email: *will.gonzalez@faa.gov.*

For legal questions concerning this action, contact: Robert Frenzel, Office of the Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7638, email: *robert.frenzel@faa.gov.*

SUPPLEMENTARY INFORMATION:

Good Cause for Immediate Adoption

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' In this instance, the FAA finds that notice and public comment to this immediately adopted final rule, as well as any delay in the effective date of this rule, are impracticable and contrary to the public interest due to the immediate need to address the potential hazard to civil aviation that now exists in the ORBB FIR, as described in the Background section of this rule.

Authority for This Rulemaking

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA's authority to issue rules on aviation safety is found in title 49, U.S. Code. Subtitle I, section 106(f),

describes the authority of the FAA Administrator. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the U.S. Government under international agreements.

This rulemaking is promulgated under the authority described in title 49, subtitle VII, part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security. This regulation is within the scope of that authority, because it amends SFAR No. 77, § 91.1605, to incorporate the prohibition set forth in the August 8, 2014, NOTAM on flight operations at all altitudes in the ORBB FIR due to the potential hazard to U.S. civil aviation posed by the armed conflict in Iraq. This amendment will remain in effect for two years. The FAA will continue to actively evaluate the area and amendments to the SFAR may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind the SFAR as necessary prior to its expiration date.

I. Background

On October 9, 1996 (61 FR 54020 (October 16, 1996)), the FAA issued SFAR No. 77 to prohibit flight operations over or within the territory and airspace of Iraq by any U.S. air carrier or commercial operator; by any person exercising the privileges of an airman certificate issued by the FAA, except persons operating U.S.-registered aircraft for a foreign air carrier; or by any person operating an aircraft registered in the United States, unless the operator of such aircraft was a foreign air carrier. The prohibition was issued in response to concerns for the safety and security of U.S. civil flights within the territory and airspace of Iraq. In the final rule, the FAA cited a threat made by then President of Iraq Saddam Hussein, who urged his air defense forces to ignore both the southern and northern no-fly zones that were then in place and to attack ''any air target of the aggressors.'' 61 FR 54020. The FAA was concerned that this threat could apply to civilian as well as to military aircraft, and therefore issued SFAR No. 77.

In early 2003, a U.S.-led coalition removed Saddam Hussein's regime from power in Iraq. The FAA anticipated that when hostilities ended in Iraq, humanitarian efforts would be needed to assist the people of Iraq. To facilitate those efforts, in April 2003, the FAA amended what was then paragraph 3 of SFAR No. 77 to clarify the approval process for such flights, making clear that operations could not be authorized by another agency without the approval of the FAA. The FAA issued the amendment on April 7, 2003 (68 FR 17870 (April 11, 2003)).

On November 13, 2003 (68 FR 65382 (November 19, 2003)), the FAA determined that certain limited overflights of Iraq could be conducted safely, subject to the permission of the appropriate authorities in Iraq and in accordance with the conditions established by those authorities. Accordingly, the FAA amended SFAR No. 77 to permit overflights of Iraq above flight level (FL) 200. That amendment also allowed aircraft departing from countries adjacent to Iraq to operate at altitudes below FL 200 within Iraq to the extent necessary to permit a climb above FL 200 if the climb performance of the aircraft would not permit operation above FL 200 prior to entering Iraqi airspace.

On April 19, 2004 (69 FR 21953 (April 23, 2004)), the FAA issued an interpretation of SFAR No. 77, entitled ''Prohibition Against Certain Flights Within the Territory and Airspace of Iraq; Approval Process for Requests for Authorization to Operate in Iraqi Airspace,'' (the 2004 Interpretation) in the **Federal Register**. The purpose of the 2004 Interpretation was to explain how the FAA would process and, where appropriate, approve requests for authorization to operate in Iraqi airspace. A copy of the 2004 Interpretation has been placed in the docket for this rulemaking.

On November 28, 2012 (77 FR 72709 (December 6, 2012)), the FAA again amended SFAR No. 77, § 91.1605, effective January 7, 2013, to allow U.S. civil flight operations to and from points outside Iraq, to and from Erbil (ORER) and Sulaymaniyah (ORSU) International Airports in Northern Iraq by persons previously prohibited from conducting such operations by SFAR No. 77, § 91.1605, based on results of evaluations of the airports. ORER and ORSU had supported non-U.S. air carrier operations for a number of years without incident. Based largely on the initiation of those operations and on improvements in the operational environment, the FAA determined that flights by U.S. operators could be conducted safely to those two airports under certain conditions. Therefore, the FAA amended SFAR No. 77, § 91.1605, to allow certain flights within the territory and airspace of Iraq north of 34°30′ North latitude below FL 200 to and from ORER or ORSU, with certain conditions and limitations.

Once the December 2012 amendment went into effect, neither an exemption nor an approval under paragraph (c) of SFAR No. 77 was required for operations to or from ORER or ORSU. However, paragraph (b)(5) required operators flying to or from ORER or ORSU to or from points outside Iraq to obtain a Letter of Authorization (LOA) or Operations Specification (OpSpec), as appropriate, from the Director, Flight Standards Service, AFS–1, prior to conducting such operations. The OpSpec or LOA specified the limitations and conditions under which the operation had to be conducted, to address the residual risk associated with operating into and out of those two airports.

On July 31, 2014, the FAA issued a NOTAM prohibiting flight operations in the territory and airspace of Iraq at or below FL 300 because of significant changes in the operational environment for U.S. civil aviation. The recent resurgence of groups, such as the Islamic State of Iraq and the Levant (ISIL), also known as the Islamic State of Iraq and Syria (ISIS), and their ongoing combat operations against the Iraqi government and its allies had led to an increased threat to U.S. civil aviation in Iraq. ISIL was rapidly acquiring weapons from captured Iraqi or Syrian stocks and had former military personnel to operate those weapons. ISIL had shot down Iraqi rotary-wing and fixed-wing aircraft flying at low altitudes, and also had man-portable air defense systems and other anti-aircraft weapons that provided the capability to target aircraft at higher altitudes. As a result, the FAA determined that ISIL posed an increased threat to U.S. civil aviation operating in Iraqi airspace at or below FL 300.

The July 31, 2014, NOTAM increased restrictions on operations in the territory and airspace of Iraq beyond the restrictions contained in SFAR No. 77, § 91.1605, which remained in effect. The following operations that had been permitted under SFAR No. 77, § 91.1605, were prohibited by the July 31, 2014, NOTAM: (1) Overflights of Iraq above FL 200 but at or below FL 300; (2) operations at or below FL 300 by flights departing from countries

adjacent to Iraq whose climb performance would not permit operations above FL 300 prior to entering Iraqi airspace; and (3) flights within the territory of Iraq north of 34°30′ North latitude originating from or destined to areas outside of Iraq to or from ORER or ORSU.

On August 7, 2014, President Obama announced that he had authorized targeted airstrikes against militants associated with ISIL if they moved toward the Iraqi city of Erbil, as well as targeted airstrikes, if necessary, to help Iraqi forces as they fought to break the siege of Mount Sinjar and to protect the civilians trapped there. The President also stated that the U.S. was conducting humanitarian air drops to aid the trapped civilians. U.S. forces began conducting airstrikes on August 8, 2014. On the same day, the FAA issued a NOTAM that prohibited U.S. civil flight operations in the ORBB FIR at all altitudes due to the potentially hazardous situation created by the armed conflict between militants associated with ISIL and Iraqi security forces and their allies. The August 8, 2014, NOTAM superseded the July 31, 2014, NOTAM. This amendment to SFAR No. 77, § 91.1605, revises the rule to incorporate the flight prohibition set forth in the August 8, 2014, NOTAM.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. 553(b)(3)(B) are impracticable and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under 49 U.S.C. 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

II. Overview of Final Rule

This action amends SFAR No. 77, § 91.1605, to incorporate the prohibition contained in the FAA's August 8, 2014, NOTAM on flight operations at all altitudes in the ORBB FIR by all U.S. air carriers; U.S. commercial operators; persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered civil aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. The FAA finds this action necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations.

A. Revised Approval Process Based on an Authorization Request From a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in Iraq. The FAA believes that it has provided a more streamlined approval processes for other U.S. government departments, agencies, and instrumentalities in more recent flight prohibition SFARs than the 2004 Interpretation would allow, and that an approval process similar to those adopted for recent SFARs may be instituted for SFAR No. 77, § 91.1605, while still addressing the threats to U.S. civil aviation in the ORBB FIR. Therefore, the FAA withdraws the 2004 Interpretation in its entirety and replaces it with the approval process described below.

If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person covered under SFAR No. 77, § 91.1605, including a U.S. air carrier or a U.S. commercial operator, to conduct a charter to transport civilian or military passengers or cargo, that department, agency, or instrumentality may request the FAA to approve persons covered under SFAR No. 77, § 91.1605, to conduct such operations. U.S. Government departments, agencies, and instrumentalities may also request approval on behalf of subcontractors where the prime contractor has a contract, grant, or cooperative agreement with the U.S. Government department, agency, or instrumentality. An approval request must be made to the FAA in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality of the U.S. Government. The letter must be sent to the Associate Administrator for Aviation Safety (AVS–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request that the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons covered under SFAR No. 77, § 91.1605, and/or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the ORBB FIR where the proposed operation(s) will be conducted; and
- The method by which the department, agency, or instrumentality will provide, or how the operator will otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of its proposed operations (*e.g.,* pre-mission planning and briefing, in-flight, and post-flight).The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the ORBB FIR. Additional operators may be identified to the FAA at any time after the FAA approval is issued. Updated lists should be sent to the email address to be obtained from the Air Transportation Division, AFS–220, by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Will Gonzalez for instructions on submitting it to the FAA. His contact information is listed in the ''For Further Information Contact'' section of this final rule.

FAA approval of an operation under SFAR No. 77, § 91.1605, does not relieve persons subject to this SFAR of their responsibility to comply with all applicable FAA rules and regulations. Operators of civil aircraft will have to comply with the conditions of their certificate and OpSpecs. Operators will also have to comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation, including, but not limited to, the Transportation Security Regulations issued by the Transportation Security Administration, Department of Homeland Security.

B. Approval Conditions

When the FAA approves the request, the FAA's Aviation Safety Organization (AVS) will send an approval letter to the requesting department, agency, or instrumentality informing it that the

FAA's approval is subject to all of the following:

(1) Any approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator, while still allowing the operator to achieve its operational objectives.

(2) Any approval will indicate that the operation is not eligible for coverage under any premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.[1] [2] Each such policy excludes coverage for any aircraft operations that are intentionally conducted into or within geographic areas prohibited by an SFAR, such as this SFAR No. 77, § 91.1605. The exclusion specified in the policy will remain in effect as long as this SFAR No. 77, § 91.1605, remains in effect, notwithstanding the issuance of any approval under, or exemption from, this SFAR No. 77, § 91.1605, (the chapter 443 premium war risk insurance policy refers to such approval as a ''waiver'' and such exemption as an ''exclusion'').

(3) Before any approval takes effect, the operator must submit to the FAA:

(a) A written release of the U.S. Government (including, but not limited to, the United States of America as Insurer) from all damages, claims, and liabilities, including without limitation legal fees and expenses; and

(b) The operator's written agreement to indemnify the U.S. Government (including but not limited to the United States of America, as Insurer) with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising from or related to the approved operations in the ORBB FIR.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy issued by the FAA under chapter 443.

(4) Other conditions that the FAA may specify, including those that may be imposed in OpSpecs.

If the proposed operation or operations is or are approved, the FAA will issue OpSpecs authorizing the operation or operations to the certificate holder and will notify the department, agency, or instrumentality that requested FAA approval of such operation(s) of any additional conditions beyond those contained in the approval letter. The requesting department, agency, or instrumentality must have a contract, grant, or cooperative agreement (or its prime contractor must have a subcontract) with the person(s) described in paragraph (a) of SFAR No. 77, § 91.1605, on whose behalf the department, agency, or instrumentality requests FAA approval.

C. Requests for Exemption

Any operation not conducted under the approval process set forth above must be conducted under an exemption from SFAR No. 77, § 91.1605. A request by any person covered under SFAR No. 77, § 91.1605, for an exemption must comply with 14 CFR part 11, and will require exceptional circumstances beyond those contemplated by the approval process set forth above. In addition to the information required by 14 CFR 11.81, the requestor must describe in its submission to the FAA, at a minimum—

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by SFAR No. 77, § 91.1605;
- The specific locations in the ORBB FIR where the proposed operation(s) will be conducted; and
- The method by which the operator will obtain current threat information, and an explanation of how the operator will integrate this information into all phases of its proposed operations (*e.g.,* the pre-mission planning and briefing, in-flight, and post-flight phases).

Additionally, the release and agreement to indemnify, as referred to above, will be required as a condition of any exemption issued under SFAR No. 77, § 91.1605.

The FAA recognizes that operations that may be affected by SFAR No. 77, § 91.1605, including this amendment, may be planned for the governments of other countries with the support of the U.S. Government. While these operations will not be permitted through the approval process, the FAA will process exemption requests for such operations on an expedited basis and prior to any private exemption requests.

III. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 601 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39, as amended, 19 U.S.C. Chapter 13) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995; currently $151 million). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, FAA has determined this final rule has benefits that justify its costs and is a ''significant regulatory action,'' as defined in section 3(f) of Executive Order 12866, because it raises novel policy issues contemplated under that Executive Order. The rule is also ''significant'' as defined in DOT's Regulatory Policies and Procedures. The final rule, if adopted, will not have a significant economic impact on a substantial number of small entities, will not create unnecessary obstacles to international trade, and will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

[1] Section 102 of Division L of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235, December 16, 2014, *inter alia,* amended 49 U.S.C. 44302(f) and 44310(a) to specify the termination dates in those sections as December 11, 2014. The effect was to terminate coverage under FAA's *premium* war risk insurance program as of December 11, 2014. FAA has decided to leave the matter relating to premium insurance in this final rule, in order to make clear that the conditions relating to insurance, as stated in the final rule, will apply in the event that Congress decides to reauthorize the premium insurance program under chapter 443 of title 49, U.S. Code. Under 49 U.S.C. 44310(b) (which was not affected by Pub. L. 113–235), FAA's authority to provide *non-premium* insurance coverage remains in effect through December 31, 2018.

[2] If and when, in connection with an operator's contract with a department, agency, or instrumentality of the U.S. Government, an operation is covered by a non-premium war risk insurance policy issued by the FAA under 49 U.S.C. 44305, coverage under that operator's FAA premium war risk insurance policy, if any, is suspended as a condition contained in that premium policy.

Total Benefits and Costs of This Rule

Total annual costs to airlines are estimated to be approximately $14 million. The benefits of this final rule are the avoided deaths that might result from a U.S. operator's aircraft being shot down (or otherwise damaged) amidst the armed conflict in Iraq. Since each fatality is valued at $9.2 million, the benefits of this final rule will exceed the costs if just two such deaths are averted.

Who is potentially affected by this rule?

1. All U.S. air carriers and U.S. commercial operators;

2. All persons exercising the privileges of an airman certificate issued by the FAA, except such persons operating U.S.-registered aircraft for a foreign air carrier; and

3. All operators of aircraft registered in the United States, except where the operator of such aircraft is a foreign air carrier.

Assumptions

- Calendar Year 2013 data.
- Schedule P–10 from Bureau of Transportation Statistics (BTS) to obtain number of employees at a carrier.
- Schedule P–1.2 from BTS to obtain Total Operating Revenues at a carrier.
- U.S. Block Hour Operating Costs by Aircraft Type and Airline, from The Airline Monitor Commercial Aircraft Database.
- Number of flights affected and additional flying time provided by air carriers.
- Value of Statistical Life (VSL) of $9.2 million for 2013.

Costs of This Rule

By prohibiting flights from operating in the ORBB FIR, flights that would overfly the ORBB FIR in the absence of this rule will have to fly additional time to avoid the area. The FAA requested flight and cost information from some U.S. air carriers who indicated to the FAA they would be affected by the prohibition. The FAA received responses from those U.S. air carriers, most of whom reported additional flying time and its associated costs. The additional reported flying time was multiplied by the operating cost per block hour by airline and aircraft type to obtain an estimate of the cost of this final rule. Total annual costs are estimated at $14 million.

This rule imposes no reporting, recordkeeping, or other compliance requirements. The FAA is unaware of any Federal rules that duplicate, overlap, or conflict with this rule.

Benefits of This Rule

The benefits of this final rule are the avoided deaths (or other losses) that might have resulted from a U.S. operator's aircraft being shot down (or otherwise damaged) amidst the armed conflict in Iraq. The benefits of this final rule will exceed the costs if just two such deaths do not occur (where each averted fatality is valued at $9.2 million).

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (''RFA''), as codified in 5 U.S.C. 601 *et seq.* establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Reasons the FAA Considered the Rule

The FAA remains committed to continuously improving civil aviation safety. The FAA finds that this final rule is in the public interest due to the immediate need to address the potential hazard to civil aviation that now exists in the ORBB FIR, as described in this Notice.

The Objectives of and the Legal Basis for the Rule

The FAA is responsible for the safety of flight in the United States and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA's authority to issue rules on aviation safety is found in title 49, U.S. Code. Subtitle I, section 106(f), describes the authority of the FAA Administrator. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the U.S. Government under international agreements.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security. This regulation is within the scope of that authority, because it amends SFAR No. 77, § 91.1605, to incorporate the August 8, 2014, NOTAM's prohibition on U.S. civil flight operations at all altitudes in the ORBB FIR due to the potential hazard to U.S. civil aviation posed by the armed conflict in Iraq. This amendment also changes the approval process and adds an expiration date.

A Description of and an Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

The Small Business Administration defines a small entity in the Air Transportation business as having less than 1,500 employees.[3] There are over 10 small entities identified as being affected by this final rule. Only two provided information relating to costs.

The FAA Believes That This Final Rule Would Not Have a Significant Impact on a Substantial Number of Small Entities for the Following Reason

The additional reported flying time by operators was multiplied by the operating cost per block hour by small airline and by aircraft type to obtain an estimate of the cost of this final rule. The small entities' operation costs

[3] U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, page 26, *http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf.*

compared to their revenue is estimated at less than 1 percent. Therefore, as provided in section 605(b) of the RFA, the Administrator of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

B. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39, 19 U.S.C. Chapter 13), as amended, prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA assessed the potential effect of this final rule and determined that it will not create an unnecessary obstacle to the foreign commerce of the United States, because the regulation has a legitimate domestic objective, the protection of safety.

C. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*) as amended, requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this immediately adopted final rule.

E. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation (the ''Chicago Convention''), it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

F. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (''NEPA'') (Pub. L. 91–190, 42 U.S.C. Chapter 55) in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312(f) of FAA Order 1050.1E and involves no extraordinary circumstances.

The FAA has reviewed the implementation of the proposed amendment to SFAR No. 77, § 91.1605, and determined it is categorically excluded from further environmental review according to FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 312(f). The FAA has examined possible extraordinary circumstances and determined that no such circumstances exist. After careful and thorough consideration of the proposed action, the FAA finds that the proposed federal action does not require preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) in accordance with the requirements of NEPA, Council on Environmental Quality regulations, and FAA Order 1050.1E.

IV. Executive Order Determinations

A. Executive Order 13132, ''Federalism''

The FAA has analyzed this immediately adopted final rule under the principles and criteria of Executive Order 13132, ''Federalism.'' The agency has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this immediately adopted final rule under Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

V. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal Document Management System (FDMS) Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Publishing Office's Web page at: *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601), as amended, requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding

this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** section at the beginning of the preamble. You can find out more about SBREFA on the Internet at: *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Iraq.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of Title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Revise § 91.1605 to read as follows:

§ 91.1605 Special Federal Aviation Regulation No. 77—Prohibition Against Certain Flights in the Baghdad (ORBB) Flight Information Region (FIR)

(a) *Applicability.* This rule applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except such persons operating U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of aircraft registered in the United States, except where the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* No person may conduct flight operations in the Baghdad (ORBB) Flight Information Region (FIR), except as provided in paragraphs (c) and (d) of this section.

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in the ORBB FIR, provided that such flight operations are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. government (or under a subcontract between the prime contractor of the department, agency, or instrumentality, and the person described in paragraph (a)), with the approval of the FAA, or under an exemption issued by the FAA. The FAA will process requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of parts 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office (FSDO) a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This SFAR will remain in effect until May 11, 2017. The FAA may amend, rescind, or extend this SFAR as necessary.

Issued under authority provided by 49 U.S.C. 106(f), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), in Washington, DC, on May 1, 2015.

Michael P. Huerta,

Administrator.

[FR Doc. 2015–11284 Filed 5–6–15; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 181

[CBP Dec. 15–07]

RIN 1515–AE04

Technical Corrections to the North American Free Trade Agreement Uniform Regulations

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document sets forth amendments to the Customs and Border Protection regulations that implement the preferential tariff treatment and other customs-related provisions of the North American Free Trade Agreement (NAFTA) entered into by the United States, Canada, and Mexico. The amendments reflect technical rectifications to the NAFTA Uniform Regulations agreed upon by the three NAFTA Parties, as well as corrections necessitated by changes to the Harmonized Tariff Schedule of the United States. The conforming amendments are required to maintain the United States' obligations under the NAFTA and to ensure that NAFTA traders operate under a uniform tariff and rules of origin regime. The amendments set forth in this document involve no substantive interpretation of the NAFTA or change in policy.

DATES: The corrections are effective July 10, 2015.

FURTHER INFORMATION CONTACT: Craig T. Clark, Director, Textile and Trade Agreements Division, Office of International Trade, Customs and Border Protection, Tel. (202) 863–6657.

SUPPLEMENTARY INFORMATION:

Background

North American Free Trade Agreement

On December 17, 1992, the United States, Canada, and Mexico entered into the North American Free Trade Agreement (NAFTA) which, among other things, provides for preferential duty treatment on goods of those three countries. The North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057, was signed into law by the United States on December 8, 1993. For purposes of administration of the NAFTA preferential duty provisions, the three countries agreed to the adoption of verbatim NAFTA Rules of Origin Regulations and additional uniform regulatory standards to be followed by each country in promulgating NAFTA implementing regulations under its national law.

NAFTA Rules of Origin Regulations

The regulations implementing the NAFTA preferential duty and related provisions under United States law are set forth in part 181 of title 19 of the Code of Federal Regulations (19 CFR part 181) which incorporates, in the Appendix, the verbatim NAFTA Rules of Origin Regulations. The NAFTA rules of origin are structured primarily in terms of prescribed changes in tariff classification, with some goods also subject to a content requirement.

Technical Rectifications to the NAFTA Rule of Origin Regulations Agreed to by the United States, Canada, and Mexico

On April 9, 2009, the United States Trade Representative, the Canadian

Minister of International Trade, and the Mexican Secretary of the Economy (Parties) agreed, in an Exchange of Letters, to make certain technical rectifications to the NAFTA Uniform Regulations for Chapter Four and Annex 403.1, subject to the completion of each Party's domestic legal procedures. These technical rectifications are set forth in Appendices 6 and 4, respectively, to the April 9, 2009 Exchange of Letters. The technical rectifications were necessitated by systemic revisions to the international Harmonized Commodity Description and Coding System (Harmonized System) and the implementation of these changes into each Party's national domestic tariff law, effective 2007. In Presidential Proclamation 8097 of December 29, 2006, the President proclaimed modifications to the Harmonized Tariff Schedule of the United States (HTSUS) to reflect the revisions to the Harmonized System (HS).

The technical rectifications to the NAFTA Uniform Regulations for Chapter Four and Annex 403.1 do not constitute policy or substantive changes to the NAFTA and have the sole purpose of maintaining consistency between the NAFTA Annexes and each of the signatory countries' tariff laws. The conforming amendments set forth in this document implement these technical rectifications by updating the HTSUS tariff provisions in the Appendix to part 181 of 19 CFR and are necessary to maintain the United States' obligations under the NAFTA and to ensure that NAFTA traders operate under a uniform tariff and rules of origin regime.

To effect the agreed upon numerical and text changes to the NAFTA Rules of Origin Regulations for the United States, technical rectifications are made to the following provisions within the Appendix to 19 CFR part 181:

- Part II, Section 5, subsection (4)(i), pertaining to exceptions to the de minimis rule for non-originating materials that do not undergo, subject to authorization, a required tariff change.
- Part III, Section 6, subsection (6)(d)(iv), pertaining to regional value content and application of the net cost method in certain circumstances.
- Part VI, Section 16, subsection (3), pertaining to exceptions to transshipment rules for certain goods.
- Schedule IV, pertaining to the list of tariff provisions for the purposes of section 9 of the Appendix.[1]

Additional Technical Corrections to the Schedule IV Light-Duty Automotive Tracing List Necessitated by Pre-2007 Revisions to the HTSUS

In addition to the technical rectifications trilaterally agreed to by the NAFTA Parties in the 2009 Exchange of Letters, described above, this document makes additional technical corrections to the Schedule IV light-duty automotive tracing list within the Appendix to 19 CFR part 181 to reflect pre-2007 modifications to the HTSUS. As noted above, the HTSUS is periodically updated to reflect systemic revisions to the HS. The periodic revisions to the HTSUS result in certain tariff provisions being added or removed, or certain goods being transferred to different or newly-created tariff provisions. As a result of pre-2007 systemic HTSUS revisions, the existing Schedule IV light-duty automotive tracing list in the Appendix to part 181 contains outdated tariff provisions that are no longer consistent with Annex 403.1 of the NAFTA. This document makes technical corrections to the numerical tariff references in the tracing list so as to conform to the current version of the HTSUS and maintain the United States' obligations under the NAFTA.

Inapplicability of the Administrative Procedure Act

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. Section 553(a)(1) of the APA provides that the standard prior notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these technical corrections involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the NAFTA. In addition, because the amendments set forth in this document are necessary to conform the NAFTA Rules of Origin Regulations within the Appendix to 19 CFR part 181 to the technical corrections to the NAFTA Uniform Regulations for Chapter Four and Annex 403.1 agreed to by the U.S., Canada, and Mexico, as well as to systemic revisions to the Harmonized System, pursuant to 5 U.S.C. 553(b)(B), CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary. For these reasons, pursuant to 5 U.S.C. 553(a)(1) and (d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date and the rulemaking requirements under the APA do not apply. It is further noted, that although the APA's delayed effective date requirement is inapplicable to this rulemaking, CBP has determined to delay the effective date of these technical rectifications for a period of 60 days from the date of publication of this document in the **Federal Register**. In consideration of the fact that two of the amendments to the CBP regulations correct tariff listings that have been out of date since 1995, the delayed effective date is offered by CBP to allow the trade, if necessary, to make adjustments to their business practices.

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*).

Executive Order 12866

As these amendments to the regulations reflect technical rectifications to the NAFTA agreed to by the United States, Canada, and Mexico, as well as revisions to the Harmonized Tariff Schedule of the United States, they do not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects in 19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Imports, Mexico, Reporting

[1] Schedule IV of the Appendix to part 181 of 19 CFR (''List of Tariff Provisions for the Purposes of Section 9 of the Appendix'' or commonly referred to as the ''Schedule IV Light-Duty Automotive Tracing List'') implements the NAFTA Annex 403.1 tariff provisions. Within Part V (''Automotive Goods'') of the Appendix to part 181, section 9 lists special NAFTA valuation rules for certain light-duty automotive goods. The section 9 rules are based on a regional value-content (RVC) calculation that requires producers and exporters to determine whether non-originating materials used in the production of light-duty automotive goods are ''traced materials'' (*i.e.,* those materials classifiable under specific HTSUS provisions listed in Annex 403.1 of the NAFTA).

and recordkeeping requirements, Trade agreements (North American Free Trade Agreement).

Amendment to the Regulations

For the reasons stated above, part 181 of title 19 of the Code of Federal Regulations (19 CFR part 181) is amended as set forth below.

PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

■ 1. The general and specific authority citations for part 181 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314.

* * * * *

■ 2. In the Appendix to part 181:

■ a. Part II, Section 5, under the heading ''Exceptions,'' subsection 4(i) is revised;

■ b. Part III, Section 6, under the heading ''Net Cost Method Required in Certain Circumstances,'' subsection (6)(d)(iv) is amended by removing ''subheading 8469.11'' and adding in its place ''heading 8469'';

■ c. Part VI, Section 16, under the heading ''Exceptions for Certain Goods,'' subsection (3) is revised;

■ d. In Schedule IV:

■ i. Remove the listing ''8407.34.05, 8407.34.15 and 8407.34.25'' and add in its place the listing ''8407.34.05, 8407.34.14, 8407.34.18 and 8407.34.25'';

■ ii. Remove the listing ''8407.34.35, 8407.34.45 and 8407.34.55'' and add in its place the listing ''8407.34.35, 8407.34.44, 8407.34.48 and 8407.34.55'';

■ iii. Remove the listing ''8519.93'' and add in its place the listing ''ex 8519.81'';

■ iv. Remove the listing ''8708.29.10 '';

■ v. Remove the listing ''8708.29.20'' and add in its place the listing ''8708.29.21 and 8708.29.25'';

■ vi. Remove the listing ''8708.39'' and add in its place the listing ''8708.30'';

■ vii. Remove the listing ''8708.60'';

■ viii. Add in numerical order the listing ''8708.95'';

■ ix. Remove the listing ''8708.99.09, 8708.99.34 and 8708.99.61'';

■ x. Remove the listing ''8708.99.12, 8708.99.37 and 8708.99.64'';

■ xi. Remove the listing ''8708.99.15, 8708.99.40 and 8708.99.67'' and add in its place the listing ''8708.99.16, 8708.99.41 and 8708.99.68'';

■ xii. Remove the listing ''8708.99.18, 8708.99.43 and 8708.99.70'';

■ xiii. Remove the listing ''8708.99.21, 8708.99.46 and 8708.99.73'';

■ xiv. Remove the listing ''8708.99.24, 8708.99.49 and 8708.99.80; and

■ xv. Add in numerical order the listing ''8708.99.23, 8708.99.48 and 8708.99.81''.

The revisions read as follows:

Appendix to Part 181—Rules of Origin Regulations

* * * * *

PART II

* * * * *

SECTION 5. DE MINIMIS

* * * * *

Exceptions

(4) * * *

(i) a non-originating material that is used in the production of any non-portable gas stoves or ranges of subheading 7321.11 or 7321.19, subheadings 8415.10, 8415.20 through 8415.83, 8418.10 through 8418.21, household type refrigerators, other than electrical absorption type of subheading 8418.29, subheadings 8418.30 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 and 8451.21 through 8451.29 and tariff items 8479.89.55 (trash compactors) and 8516.60.40 (electric stoves or ranges);

* * * * *

PART VI

SECTION 16. TRANSSHIPMENT

* * * * *

Exceptions for Certain Goods

(3) Subsection (1) does not apply with respect to:

(a) a ''smart card'' of subheading 8523.52, containing a single integrated circuit, where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to any other subheading;

(b) a good of any of subheadings 8541.10 through 8541.60 or subheadings 8542.31 through 8542.39, where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to a subheading outside subheadings 8541.10 through 8542.90;

(c) an electronic microassembly of subheading 8543.70, where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to any other subheading; or

(d) an electronic microassembly of subheading 8548.90, where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to any other subheading.

* * * * *

R. Gil Kerlikowske,

Commissioner.

Approved: May 5, 2015.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2015–11291 Filed 5–8–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

Final Waiver and Extension of the Project Period; Community Parent Resource Centers

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.328C]

AGENCY: Office of Special Education Programs (OSEP), Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final waiver and extension of the project period.

SUMMARY: For the nine currently funded Community Parent Resource Centers (CPRCs), the Secretary waives the requirements that generally prohibit project periods exceeding five years and extensions of project periods involving the obligation of additional Federal funds. This waiver and extension of the project period enables these nine CPRCs to receive funding from October 1, 2015, through September 30, 2016. Further, the waiver and extension of the project period mean that we will not announce a new competition or make new awards in fiscal year (FY) 2015.

DATES: The waiver and extension of the project period are effective May 11, 2015.

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, Potomac Center Plaza, Washington, DC 20202–2600. Telephone: (202) 245–6595.

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 9, 2015, we published a notice in the **Federal Register** (78 FR 46860) proposing an extension of project period and a waiver of 34 CFR 75.250 and 75.261(a) and (c)(2) in order to—

(1) Enable the Secretary to provide additional funds to the currently funded CPRCs for an additional 12-month project period, from October 1, 2015, through September 30, 2016; and

(2) Request comments on the proposed extension of project period and waiver.

There are no substantive differences between the proposed waiver and extension and the final waiver and extension.

Public Comment

In response to our invitation in the notice of proposed waiver and extension of the project period, we did not receive

any substantive comments. Generally, we do not address comments that raise concerns not directly related to the proposed waiver and extension of project period.

Background

On May 3, 2010, the Department of Education (Department) published in the **Federal Register** (75 FR 23254) a notice inviting applications (2010 NIA) for new awards for FY 2010 for up to 10 CPRCs. The CPRCs are funded under the Parent Training and Information (PTI) Program, authorized under sections 672 and 673 of the Individuals with Disabilities Education Act (IDEA).

The purpose of CPRCs is to provide underserved parents of children with disabilities in targeted communities—including low-income parents, parents of limited English proficient children, and parents with disabilities—with the training and information they need to enable them to participate cooperatively and effectively in helping their children with disabilities to—

(1) Meet developmental and functional goals, as well as challenging academic achievement standards that have been established for all children; and

(2) Be prepared to lead the most productive, independent adult lives possible.

The CPRCs provide training and information to parents of infants, toddlers, and children, from birth through age 26, with the full range of disabilities described in section 602(3) of IDEA by: (a) Responding to individual requests for information and support from parents of children with disabilities, including parents of children who may be inappropriately identified in their targeted communities; (b) providing training to parents of children with disabilities; (c) supporting parents of children with disabilities, as needed, such as helping them to prepare for individualized education program or individualized family service plan meetings; and (d) maintaining a Web site and social media presence, as appropriate, to inform parents in their targeted communities of appropriate resources.

Based on the selection criteria in the 2010 NIA, the Department made awards for a period of 60 months each to 10 organizations, nine of which have received FY 2014 continuation funding: Fiesta Educativa in California; Parent to Parent of Miami, Inc. in Florida; Agenda for Children/Pyramid Parent Training in Louisiana; Urban PRIDE in Massachusetts; SPEAKS Education, Inc. in Michigan; Education for Parents of Indian Children with Special Needs in New Mexico; Palau Parents Empowered in Palau; Philadelphia HUNE, Inc. in Pennsylvania; and Children's Disabilities Information Coalition in Texas.

The 2010 CPRC cohort's current project period is scheduled to end on September 30, 2015. We do not believe that it would be in the public interest to run a competition for new CPRCs this year because the Department is in the process of changing the competition schedule for the PTI Program to make better use of Department resources.

Under the proposed CPRC competition schedule, instead of holding three competitions over five years, each for 10 CPRCs, we would hold one competition for 30 CPRCs that will each have a project period of up to five years. We propose to hold this competition and fund 30 CPRCs in FY 2016. We also have concluded that it would be contrary to the public interest to provide services to fewer underserved families in order to change the Department's competition schedule.

For these reasons, the Secretary waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver allows the Department to issue FY 2015 continuation awards of $100,000 to each of the nine centers in the FY 2010 cohort.

Any activities carried out during the 12-month period of this continuation award will have to be consistent with, or a logical extension of, the scope, goals, and objectives of the grantee's application as approved in the FY 2010 CPRC competition. The requirements applicable to continuation awards for this competition set forth in the 2010 NIA and the requirements in 34 CFR 75.253 will apply to any continuation awards sought by the current CPRC grantees. We will base our decisions regarding continuation awards on the program narratives, budgets, budget narratives, and program performance reports submitted by the current grantees, and the requirements in 34 CFR 75.253.

Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). We received no substantive comments on the proposed waiver and extension of project period, and we have not made any substantive changes to the proposed waiver and extension of project period. The Secretary has made a determination to waive the delayed effective date to ensure there is no lapse in the parent training and information services currently provided by the CPRCs.

Regulatory Flexibility Act Certification

The Secretary certifies that this waiver and extension of the project period will not have a significant economic impact on a substantial number of small entities.

The only entities that will be affected by this waiver and extension of the project period are the current grantees receiving Federal funds and any other potential applicants.

The Secretary certifies that this waiver and final extension will not have a significant economic impact on these entities because the extension of existing project periods imposes minimal compliance costs, and the activities required to support the additional year of funding will not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of final waiver and extension of the project period does not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Dated: May 5, 2015.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–11307 Filed 5–8–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 402

[Docket No. FWS–R9–ES–2011–0080; NOAA–120106024–5048–02; FF09E–31000–156–FXES–1122–0900000]

RIN 1018–AX85; 0648–BB81

Interagency Cooperation—Endangered Species Act of 1973, as Amended; Incidental Take Statements

AGENCY: Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (collectively, the Services), are amending the incidental take statement provisions of the implementing regulations for section 7 of the Endangered Species Act of 1973, as amended (ESA). The two primary purposes of the amendments are to address the use of surrogates to express the amount or extent of anticipated incidental take and to refine the basis for development of incidental take statements for programmatic actions. These changes are intended to improve the clarity and effectiveness of incidental take statements. The Services believe these regulatory changes are a reasonable exercise of their discretion in interpreting particularly challenging aspects of section 7 of the ESA related to incidental take statements.

DATES: This final rule is effective on June 10, 2015.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* at Docket No. FWS–R9–ES–2011–0080. Comments and materials we received on the proposed rule, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* The comments, materials, and documentation that we considered in this rulemaking are also available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Headquarters office, 5275 Leesburg Pike, Falls Church, Virginia 22041, (703) 358–2171, (703) 358–1800 (facsimile); National Marine Fisheries Service, Headquarters office, 1315 East-West Highway, Silver Spring, Maryland 20910, (301) 427–8405, (301) 713–0376 (facsimile).

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, Chief, Division of Environmental Review, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (telephone: 703–358–2171); or Cathryn E. Tortorici, Chief, Endangered Species Act Interagency Cooperation Division, Office of Protected Resources, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC (telephone: 301–427–8400). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the ESA prohibits the take of fish or wildlife species listed as endangered with certain exceptions. Pursuant to section 4(d) of the ESA, the Services may prohibit the take of fish or wildlife species listed as threatened. Under section 3 of the ESA, the term ''take'' means to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' Section 7 of the ESA provides for the exemption of incidental take of listed fish or wildlife species caused by Federal agency actions that the Services have found to be consistent with the provisions of section 7(a)(2). The Services jointly administer the ESA via regulations set forth in the Code of Federal Regulations (CFR). This rule deals with regulations found in title 50 of the CFR at part 402.

Under 50 CFR 402.14, Federal agencies must review their actions at the earliest possible time to determine whether any action may affect species listed under the ESA or their designated critical habitat. If such a determination is made, formal consultation with the appropriate Service is required, unless one of the exceptions outlined at § 402.14(b) applies. Within 45 days after concluding formal consultation, the Service delivers a biological opinion to the Federal agency and any applicant. The biological opinion states the opinion of the Service as to whether or not the Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitat. If a proposed action is reasonably certain to cause incidental take of a listed species, the Services, under 50 CFR 402.14(i), issue along with the biological opinion an incidental take statement that specifies, among other requirements: The impact of such incidental taking on the listed species; measures considered necessary or appropriate to minimize the impact of such take; terms and conditions (including reporting requirements) that implement the specified measures; and procedures to be used for handling or disposing of individuals that are taken.

The current regulations at § 402.14(i)(1)(i) require the Services to express the impact of such incidental taking of the species in terms of amount or extent. The preamble to the final rule that set forth the current regulations discusses the use of a precise number of individuals or a description of the land or marine area affected to express the amount or extent of anticipated take, respectively (51 FR 19954, June 3, 1986).

Court decisions rendered over the last decade regarding the adequacy of incidental take statements have prompted the Services to clarify two aspects of the regulations addressing incidental take statements: (1) The use of surrogates to express the amount or extent of anticipated incidental take, including circumstances where project impacts to the surrogate are coextensive with at least one aspect of the project's scope; and (2) the circumstances under which providing an incidental take statement with a biological opinion on a programmatic action is appropriate.

Through this final rule, the Services are establishing prospective standards regarding incidental take statements. Consistent with the regulatory language set forth in the proposed rule, we are clarifying that the Services formulate an incidental take statement if such take is reasonably certain to occur. Nothing in

these final regulations is intended to require reevaluation of any previously completed biological opinions or incidental take statements. Additionally, this final rule revises only those portions of the joint consultation regulations of 50 CFR part 402 set forth in the ''Regulation Promulgation'' section below. All other provisions remain unchanged. These revisions to the incidental take statement regulations addressing surrogates, programmatic actions, and the applicable standard for anticipating take are independent revisions that are fully severable from each other.

Proposed Rule

On September 4, 2013, the Services published a proposed rule addressing the incidental take statement provisions of the implementing regulations for section 7(a)(2) of the ESA (78 FR 54437). The proposed rule addressed the use of surrogate take indicators and issuance of an incidental take statement for programmatic actions. The proposed rule requested that all interested parties submit written comments on the proposal by November 4, 2013. The Services also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. The Services received comments from 64 individuals and organizations.

For surrogates, the proposed rule endorsed the use of surrogates to express the amount or extent of anticipated incidental take and set forth three requirements for their use in an incidental take statement. This final rule adopts the approach of the proposed rule for surrogates with no significant changes.

For programmatic actions, the proposed rule addressed the subset of Federal actions that are designed to provide a framework for the development of future, site-specific actions that are authorized, funded, or carried out and subject to the requirements of section 7 at a later time. Development of incidental take statements for ''framework'' programmatic actions is problematic because they generally lack the site-specific details of where, when, and how listed species will be affected by the program. The Services rely on such information to inform the amount or extent of take in the incidental take statement that serves as a trigger for reinitiation of consultation pursuant to the requirements of 50 CFR 402.16(a).

The Services proposed to distinguish programmatic actions and programmatic incidental take statements for framework actions in the regulations to clarify the basis for development of an incidental take statement for this type of Federal program. The proposed rule stated that the key distinguishing characteristics of programmatic actions for purposes of the rule are: (1) They provide the framework for future, site-specific actions that are subject to section 7 consultations and incidental take statements, but they do not authorize, fund, or carry out those future site-specific actions; and (2) they do not include sufficient site-specific information to inform an assessment of where, when, and how listed species are likely to be affected by the program. In lieu of quantifying a traditional amount or extent of take, the Services proposed to develop programmatic incidental take statements that anticipate an unquantifiable amount or extent of take at the programmatic scale in recognition that subsequent site-specific actions authorized, funded, or carried out under the programmatic action will be subject to subsequent section 7 consultation and incidental take statements, as appropriate. The Services proposed to express reinitiation triggers as reasonable and prudent measures that adopt either specific provisions of the proposed programmatic action, such as spatial or timing restrictions, to limit the impacts of the program on listed species or similar restrictions identified by the Services that would function to minimize the impacts of anticipated take on listed species at the program level.

After further consideration of relevant court rulings, the Services' national section 7 policy, and public comments, the Services are revising the approach described in the proposed rule to address incidental take statements for programmatic actions. The revised approach relies more appropriately on the distinction that a framework programmatic action only establishes a framework for the development of specific future action(s) but does not authorize any future action(s). Under those particular circumstances, the programmatic action in and of itself does not result in incidental take of listed species. Under this final rule, the Services are defining the term *framework programmatic action* in the regulations and recognizing the Services' authority not to provide an incidental take statement with a biological opinion addressing the proposed adoption of a program establishing a framework for the development of future actions. As discussed in more detail below, the Services believe this approach is fully consistent with the statutory purposes of an incidental take statement and the language of section 7 of the ESA. It also advances the policy goals of the Services to focus the provision of incidental take statements at the action level at which such take will result.

The approach taken in the proposed rule was predicated on the assumption that a framework programmatic action could cause take. Given the particular nature of framework programmatic actions discussed above, the Services have altered their view and now affirm that a framework programmatic action in and of itself does not result in incidental take of listed species. This altered view as to incidental take for framework programmatic actions, however, does not undermine the duty to consult under section 7(a)(2) of the ESA. Framework programmatic actions will trigger formal consultation if the action may affect listed species or their designated critical habitat. Additionally, the Services also reconsidered the approach taken in the proposed rule because an incidental take statement for a framework programmatic action may not be practical to implement. In particular, the Services are concerned that it may be difficult to identify measures at a program scale that are specific enough to serve as valid take-related reinitiation triggers in an incidental take statement given that such measures are often described in the proposed program in a qualitative rather than a quantitative manner. Additionally, the Services are concerned that program-based measures may not serve as consistently effective reinitiation triggers because reinitiation would occur only when the action agency deviated from the terms of its own program. The additional burden of monitoring and reporting requirements for such measures in many instances would outweigh the limited functionality such measures would provide in terms of minimizing the impacts of anticipated take. The limited functionality of this approach is also raised by the fact that a similar reinitiation trigger for changes to the proposed action is already set forth in the existing regulations at 50 CFR 402.16(c) where discretionary Federal involvement or control over the action has been retained or is authorized by law.

The proposed rule set forth a definition of *programmatic incidental take statement* that, among other things, indicated the Services would issue an incidental take statement where take was ''reasonably certain to occur.'' While the Services are not including this definition in the final rule, we are

clarifying that the ''reasonable certainty'' of take is the applicable standard for when the Services formulate an incidental take statement.

Use of Surrogates

The Services acknowledge congressional preference for expressing the impacts of take in incidental take statements in terms of a numerical limitation with respect to individuals of the listed species. However, Congress also recognized that a numerical value would not always be available and intended that such numbers be established only where possible. H.R. Rep. No. 97–567, at 27 (1982). The preamble to the final rule that set forth the current regulations also acknowledges that exact numerical limits on the amount of anticipated incidental take may be difficult to determine and the Services may instead specify the level of anticipated take in terms of the extent of the land or marine area that may be affected (51 FR 19926 [19953–19954]; June 3, 1986). In fact, as the Services explained in the preamble to that rule, the use of descriptions of extent of take can be more appropriate than the use of numerical amounts ''because for some species loss of habitat resulting in death or injury to individuals may be more deleterious than the direct loss of a certain number of individuals'' (51 FR at 19954).

Over the last 25 years of developing incidental take statements, the Services have found that, in many cases, the biology of the listed species or the nature of the proposed action makes it impractical to detect or monitor take of individuals of the listed species. In those situations, evaluating impacts to a surrogate such as habitat, ecological conditions, or similar affected species may be the most reasonable and meaningful measure of assessing take of listed species.

The courts also have recognized that it is not always practicable to establish the precise number of individuals of the listed species that will be taken and that ''surrogate'' measures are acceptable to establish the impact of take on the species if there is a link between the surrogate and take. *See Arizona Cattle Growers' Ass'n* v. *U.S. Fish and Wildlife Service,* 273 F.3d 1229 (9th Cir. 2001). It is often more practical and meaningful to monitor project effects upon surrogates, which can also provide a clear standard for determining when the amount or extent of anticipated take has been exceeded and consultation should be reinitiated. Accordingly, the Services adopted the use of surrogates as part of our national policy for preparing incidental take statements:

> Take can be expressed also as a change in habitat characteristics affecting the species (*e.g.,* for an aquatic species, changes in water temperature or chemistry, flows, or sediment loads) where data or information exists which links such changes to the take of the listed species. In some situations, the species itself or the effect on the species may be difficult to detect. However, some detectable measure of effect should be provided. . . . [I]f a sufficient causal link is demonstrated (*i.e.,* the number of burrows affected or a quantitative loss of cover, food, water quality, or symbionts), then this can establish a measure of the impact on the species or its habitat and provide the yardstick for reinitiation. (*Endangered Species Consultation Handbook,* U.S. Fish and Wildlife Service and National Marine Fisheries Service, March 1998, at 4–47–48 ([Services' Section 7 Handbook])

For example, under a hypothetical Clean Water Act permit, the U.S. Army Corps of Engineers would authorize the fill of a quarter-acre of wetlands composed of three vernal pools occupied by the threatened vernal pool fairy shrimp *(Branchinecta lynchi)* to construct a road-crossing. The wetland fill is likely to kill all of the shrimp occupying the three vernal pools. A single pool may contain thousands of individual shrimp as well as their eggs or cysts. For that reason, it is not practical to express the amount or extent of anticipated take of this species or monitor take-related impacts in terms of individual shrimp. Quantifying the habitat area encompassing the three vernal pools supporting this species as a surrogate for incidental take would be a practical and meaningful alternative to quantifying and monitoring the anticipated incidental take in terms of individual shrimp caused by the proposed Federal permit action. It is a practical alternative because effects to vernal pool fairy shrimp habitat are causally related to take of the fairy shrimp, these effects can be readily monitored, and the extent of impacts to occupied habitat provides a clear standard for when the anticipated extent of take has been exceeded.

The Ninth Circuit Court's holding in *Oregon Natural Resources Council* v. *Allen,* 476 F.3d 1031 (9th Cir. 2007) could be read to suggest that such surrogates cannot be coextensive with the project's scope for fear that reinitiation of consultation would not be triggered until the project is complete. However, even under circumstances of a coextensive surrogate (such as in the above example), the action agency or applicant will be required under the incidental take statement to monitor project impacts to the surrogate during the course of the action (*e.g.,* required monitoring to confirm the action does not exceed fill of three vernal pools in the quarter-acre wetland), which will determine whether these impacts are consistent with the analysis in the biological opinion. This assessment will ensure that reinitiation of formal consultation will be triggered if the extent of the anticipated taking specified in the incidental take statement is exceeded during the course of the action where discretionary Federal involvement or control over the action has been retained or is authorized by law in accordance with 50 CFR 402.16. In the above example, reinitiation of formal consultation would be triggered in the event a fourth vernal pool was discovered during wetland fill or it was determined that the total amount of vernal pool habitat modified by the project exceeded the identified one-quarter of an acre of wetland habitat. Thus, although fully coextensive with the *anticipated* impacts of the project on the vernal pool fairy shrimp, the surrogate nevertheless provides for a meaningful reinitiation trigger consistent with the purposes of an incidental take statement.

In addition to discussing the use of habitat surrogates for expressing the extent of anticipated take, the Services' Section 7 Handbook also discusses (on page 4–47) the use of impacts to non-listed species as a surrogate for expressing the amount of anticipated take of a listed species:

> In some situations, the species itself or the effect on the species may be difficult to detect. However, some detectable measure of effect should be provided. For instance, the relative occurrence of the species in the local community may be sufficiently predictable that impacts on the community (usually surrogate species in the community) serve as a measure of take, *e.g.,* impacts to listed mussels may be measured by an index or other censusing technique that is based on surveys of non-listed mussels. In this case, the discussion determining the level at which incidental take will be exceeded (reinitiation level) describes factors for the non-listed mussels indicating impact on the listed species, such as an amount or extent of decrease in numbers or recruitment, or in community dynamics.

We are amending § 402.14(i)(1)(i) of the regulations to clarify that surrogates may be used to express the amount or extent of anticipated take, provided the biological opinion or the incidental take statement: (1) Describes the causal link between the surrogate and take of the listed species; (2) describes why it is not practical to express the amount of anticipated take or to monitor take-related impacts in terms of individuals of the listed species; and (3) sets a clear standard for determining when the amount or extent of the taking has been exceeded. Such flexibility may be

especially useful in cases where the biology of the listed species or the nature of the proposed action makes it impractical to detect or monitor take-related impacts to individual animals. This use of surrogates to express the amount or extent of incidental take is consistent with Federal court decisions addressing the issue of surrogates as reinitiation triggers in incidental take statements.

Provision of an Incidental Take Statement With a Biological Opinion for Programmatic Actions

The section 7 regulatory definition of Federal ''action'' includes Federal agency programs. *See* 50 CFR 402.02. Such programs may include a collection of activities of a similar nature, a group of different actions proposed within a specified geographic area, or an action adopting a framework for the development of future actions. Those future actions may be developed at the local, statewide, or national scale, and are authorized, funded, or carried out and subject to section 7 consultation requirements at a later time as appropriate. Examples of Federal programs that provide such a framework include land management plans prepared by the Forest Service and the Bureau of Land Management and the U.S. Army Corps of Engineers' Nationwide Permit Program.

As discussed above, the Services are modifying the section 7 regulations to address incidental take statements for framework programmatic actions in a way that revises the approach described in the proposed rule. The revised approach reflects our further consideration of relevant court rulings, the Services' national section 7 policy, and public comments on the proposed rule. Under this final rule, we are establishing regulatory provisions specific to framework programmatic actions that require section 7 consultation and adopt a framework for the development of future actions but do not authorize those future actions. This rule change will clarify the circumstances under which the Services will not provide an incidental take statement with a biological opinion addressing a framework programmatic action because adoption of a framework will not itself result in the take of listed species. Any take resulting from subsequent actions that proceed under the framework programmatic action will be subject to section 7 consultation and an incidental take statement, as appropriate. However, this regulatory change does not imply that section 7 consultation is required for a framework programmatic action that has no effect on listed species or critical habitat. The Services believe that this approach is fully consistent with the statutory purposes of an incidental take statement and the language of section 7 of the ESA.

As an initial and elementary matter, section 7 of the ESA directs the provision of an incidental take statement only where take is anticipated to result from the proposed Federal agency action. If take is not anticipated, then logically no incidental take statement would be provided. *See* 16 U.S.C. 1536(b)(4). Because a framework programmatic action does not itself authorize any action to proceed, no take is anticipated to result, and, therefore, the statute does not require the provision of an incidental take statement.

To read the statute otherwise to require the provision of incidental take statements for framework programmatic actions would not meaningfully further the statutory purposes of incidental take statements. The primary purpose of an incidental take statement is, when consistent with protection of the species, to exempt the incidental take of listed species that is anticipated to result from the agency action and impose conditions on that exemption intended to minimize the impacts of such take for the species' benefit. *See* 16 U.S.C. 1536(b)(4); H.R. Rep. 97–567, at 26–27 (1982). As provided in the legislative history and reflected in the Services' regulations, an additional purpose is to identify reinitiation triggers that provide clear signals that the level of anticipated take has been exceeded and would, therefore, require reexamination through a reinitiated consultation (H.R. Rep. 97–567, at 26–27 (1982); 50 CFR 402.14(i)).

Due to the nature of the action, no take results when a framework programmatic action is adopted. Adoption of the program itself, by definition, only establishes a framework for later action. ESA consultations will occur when subsequent actions may affect listed species and are consistent with the terms of the authorized program. If incidental take is reasonably certain to occur and the proposed action is compliant with the requirements of section 7(a)(2), then an action-specific incidental take statement will be provided that ensures any incidental take from the subsequent action under the program is addressed. The primary purpose of an incidental take statement (exemption of take and minimization of take-related impacts for the benefit of the listed species) would also not be advanced, because any incidental take statement provided at the program level and the resulting exemption would necessarily be incomplete since a second consultation and an action-specific incidental take statement still need to be provided when later actions are authorized under the program. Additionally, the level of detail available at the program (framework) level is often insufficient to identify with particularity where, when, and how the program will affect listed species. Without such detail, it is difficult to write sufficiently specific and meaningful terms and conditions intended to minimize the impact of the taking for the benefit of the listed species. Given this lack of specificity and information, providing the amount (*e.g.,* the number of individuals of the species taken) or extent (*e.g.,* the number of acres of the species' habitat disturbed) of take in many instances would be speculative and unlikely to provide an accurate and reliable trigger for reinitiation of consultation, thus undermining the additional purpose of an incidental take statement.

As discussed above, the modified approach for addressing incidental take statements for framework programmatic actions advances the policy goals of the Services to focus the provision of incidental take statements at the action level where such take will result. Consistent with that focus, if a decision adopting a framework also includes decisions authorizing actions (that is, actions for which no additional authorization will be necessary), then an incidental take statement would be necessary for those actions, provided the action is compliant with section 7(a)(2) and take is reasonably certain to occur. The Services have included recognition of this circumstance in the regulatory definition of the term ''mixed programmatic action'' in this final rule. For other types of programmatic actions not falling within the definitions provided in the rule, incidental take statements will be formulated by the Services to accompany biological opinions where incidental take is reasonably certain to occur and the proposed Federal action is compliant with the requirements of section 7(a)(2).

If, as discussed above, an incidental take statement is not provided with a biological opinion on a framework programmatic action on the basis that no take will result at the program stage, questions arise about how the associated biological opinion can nevertheless address indirect effects of the program's implementation. Put another way, if indirect effects amount to killing, harming, harassing, etc., how can no take occur? The explanation turns on the differing purposes of a biological

opinion as compared with an incidental take statement.

Unlike the purposes of an incidental take statement, the analysis in a biological opinion is used to determine whether an agency action is likely to jeopardize a listed species or adversely modify designated critical habitat. *See* 16 U.S.C. 1536(b)(3)(A); 50 CFR 402.14(h); H.R. Rep. 97–567, at 10 (1982). Conducting an effects analysis on a framework programmatic action that examines the potential effects of implementing the program is fully consistent with the purposes of a biological opinion. The analysis in a biological opinion allows for a broad-scale examination of a program's potential impacts on a listed species and its designated critical habitat—an examination that is not as readily conducted when the later, action-specific consultation occurs on a subsequent action developed under the program framework. The provisions of an incidental take statement, including the amount and extent of take and the terms and conditions, necessarily must be specific to ensure they can be followed and allow for a determination of when they have been exceeded. *See* 16 U.S.C. 1536(b)(4); 50 CFR 402.14(i). In contrast, a meaningful effects analysis within a biological opinion may appropriately rely upon qualitative analysis to determine whether a program and its set of measures intended to minimize impacts or conserve listed species are adequately protective for purposes of making a jeopardy determination. Programmatic biological opinions examine how the parameters of the program align with the survival and recovery of listed species. This approach reflects the different statutory purposes that the two related but separate documents were intended to address.

Distinctions between ''effects'' and ''take'' at the programmatic scale support analyzing potential program implementation as part of the ''effects'' of the framework programmatic action but not providing an incidental take statement at the program level. The ESA itself uses different terms in specifying the contents of a biological opinion for jeopardy purposes (''detail[] how the agency action affects the species'') and an incidental take statement (focused on ''take''). *See* 16 U.S.C. 1536(b)(3)(A), (b)(4). The ESA also does not define ''affects'' in any way.

For purposes of a biological opinion on a framework programmatic action, the Services typically evaluate the potential implementation of the program as ''effects of the action.'' The Services can legitimately draw a distinction between ''effects'' of the program and the purpose of a biological opinion on that program and ''take'' and the purpose of an incidental take statement in the subsequent consultation on later actions carried out under the program. Given that no actions that would lead to take are authorized when the framework program itself is adopted, the Services' position is that take is not anticipated from the adoption of the program in and of itself. As a result, the Services find that it is appropriate not to provide an incidental take statement at the program level and to address take during subsequent steps when specific actions are authorized under the program and subsequent consultation occurs. As mentioned above, if, however, a decision adopting a program framework also includes decisions authorizing actions that will not be subject to further Federal authorization or section 7 consultation and take is reasonably certain to occur, then an incidental take statement would be necessary for those portions of the programmatic action that will result in incidental take. The Services have included recognition of this circumstance in the regulatory definition of the term ''mixed programmatic action'' in this final rule.

Action agencies often seek to engage in consultation on programmatic actions to gain efficiencies in the section 7 consultation process. The Services anticipate this rule will afford action agencies and the Services with substantial flexibility to efficiently and effectively conduct consultation, while ensuring compliance with responsibilities under the ESA. For example, if an action agency designs a programmatic action and provides adequate information to inform the development of a biological opinion with an incidental take statement covering future actions implemented under the program, the Services anticipate they will be able to provide such an opinion and incidental take statement to the action agency under this rule. Action agencies may request assistance from the Services to help determine how a program could best be addressed pursuant to this rule. The Services also encourage action agencies to consider how any section 7 consultation on a programmatic action is consistent with the action agency's other environmental review processes.

Standard for Issuance of an Incidental Take Statement

In this final rule, the Services are clarifying that the standard for issuance of an incidental take statement is ''reasonable certainty'' that take will occur. The Services are amending 50 CFR 402.14(g)(7) to implement this clarification. The Services do not consider this change to be substantive, but rather a clarification of the existing standard for issuance of an incidental take statement.

Expressly including the standard of reasonable certainty in this final rule at 50 CFR 402.14(g)(7) is consistent with the ESA, existing section 7 regulations, the Services' current practice, the Services' Section 7 Handbook, and applicable case law. The three requirements that must be met under section 7 of the ESA before an incidental take statement is issued implicitly suggest that a finding of take is required. *See* 16 U.S.C. 1536(b)(4)(B) (''*the taking* of an endangered species or a threatened species incidental to the agency action will not violate such subsection'') (emphasis added). The statute does not set forth the standard by which incidental take is to be determined, however, leaving room for the Services to offer their interpretation.

As for the regulations, the section 7 regulations expressly apply the ''reasonable certainty'' standard to ''indirect effects'' that are defined as part of the ''effects of the action.'' *See* 50 CFR 402.02. The existing provision governing the contents of an incidental take statement at 50 CFR 402.16(i)(1) reflects the requirement that at least some level of incidental take be anticipated to meaningfully include the required contents of an incidental take statement, *e.g.,* the impact of the take (amount or extent of take), and the reasonable and prudent measures considered ''necessary or appropriate to minimize such impact.''

The Services' Section 7 Handbook, issued in 1998, identifies a similar standard of ''reasonably likely'' to determine when to issue an incidental take statement. The Handbook predates the Ninth Circuit's decision in *Arizona Cattle Growers' Ass'n* v. *U.S. Fish and Wildlife Service,* 273 F.3d 1229 (9th Cir. 2001). In that case, the Ninth Circuit provided a lengthy discussion of when the Services must issue an incidental take statement. Examining the statute and the regulations, the court held that there must be a reasonable basis to conclude that incidental take will occur in order to issue an incidental take statement. Although not definitively resolving the issue, the court cited favorably to the lower court's application of the standard of ''reasonable certainty'' for issuance of an incidental take statement. The court particularly expressed concern about the imposition of conditions on otherwise lawful land use absent

reasonable certainty of incidental take. In 2002, following the *Arizona Cattle Growers'* decision, the Fish and Wildlife Service expressly recognized ''reasonable certainty'' as the standard that applies to determine if incidental take will occur.

The language currently in 50 CFR 402.14(g)(7) is not inconsistent with the Services' application of the ''reasonable certainty'' standard. This provision requires the Services to ''formulate a statement concerning incidental take, if such taking *may occur''* (50 CFR 402.14(g)(7) (emphasis added)). While some courts have read this language to potentially suggest a lower standard applies for the issuance of an incidental take statement, *see, e.g., Public Employees for Environmental Responsibility* v. *Beaudreu,*—F.Supp.2d —,2014 WL 985394 (D.D.C. 2014), that is not the Services' interpretation. The language of § 402.14(g)(7) cannot be read in isolation. The Services implement § 402.14(g)(7) together with the more particular requirements of § 402.14(i).

For all the reasons discussed above, the ''reasonable certainty'' standard governs the threshold issue of whether to formulate an incidental take statement. Once the Services determine that incidental take is reasonably certain to occur, then the specific provisions of 50 CFR 402.14(i) govern (*e.g.,* amount or extent of take, terms and conditions) and are applied consistent with the best scientific and commercial data available. Where formal consultation results in a determination that take is not ''reasonably certain,'' then consistent with § 402.14(g)(7) and the Services' Section 7 Handbook, the Services provide a section entitled ''incidental take statement'' along with a short paragraph explaining that incidental take is not anticipated. Thus, the statement does not go on to provide an amount or extent of take, reasonable and prudent measures, or the other components of an incidental take statement. To avoid any confusion about the standard for anticipating incidental take of listed species, the Services have modified the text of § 402.14(g)(7) to reflect the ''reasonably certain to occur'' standard.

As a practical matter, application of the ''reasonable certainty'' standard is done in the following sequential manner in light of the best available scientific and commercial data to determine if incidental take is anticipated: (1) A determination is made regarding whether a listed species is present within the area affected by the proposed Federal action; (2) if so, then a determination is made regarding whether the listed species would be exposed to stressors caused by the proposed action (*e.g.,* noise, light, ground disturbance); and (3) if so, a determination is made regarding whether the listed species' biological response to that exposure corresponds to the statutory and regulatory definitions of take (*i.e.,* kill, wound, capture, harm, etc.). Applied in this way, the ''reasonable certainty'' standard does not require a guarantee that a take will result, rather, only that the Services establish a rational basis for a finding of take. While relying on the best available scientific and commercial data, the Services will necessarily apply their professional judgment in reaching these determinations and resolving uncertainties or information gaps. Application of the Services' judgment in this manner is consistent with the ''reasonable certainty'' standard. The standard is not a high bar and may be readily satisfied as described above. *See, e.g., Arizona Cattle Growers',* 273 F.3d at 1244 (noting that the standard the court applies in reviewing whether the Services may issue an incidental take statement is a ''very low bar to meet'').

Summary of Changes From the Proposed Rule

In response to public comments and internal review, the Services made the following changes compared to the proposed rule:

The term and definition for *programmatic action* and the proposed text of §§ 402.02 and 402.14(i)(6) are modified in this final rule. The term *programmatic action* is changed to *framework programmatic action.* The term *mixed programmatic action* and its definition are also added to the final rule. The proposed term and definition for *programmatic incidental take statement* at § 402.02 are removed; however, the standard set forth in the definition (reasonable certainty) is included in the final rule as explained below. These changes define, for purposes of incidental take statements under section 7 of the ESA, the subset of Federal agency actions to which this rule applies. The new definitions draw distinctions between these types of programmatic actions based on the extent to which those programs do or do not require subsequent Federal approvals and section 7 consultation for the terms of the program to be carried out. The new § 402.14(i)(6) added to the regulations under this final rule establishes when an incidental take statement is and is not required for these two categories of programmatic action.

The approach relied upon in this final rule for programmatic actions is fully consistent with the identified purpose of the proposed rule, which, among other things, was to clarify development of incidental take statements for programmatic actions. While this approach modifies the approach of the proposed rule for programmatic actions, the public was specifically asked for comment on whether the approach relied upon in this final rule would be more appropriate to address the issue of incidental take statements for programmatic actions. *See* 78 FR 54437, 54441 (Sept. 4, 2013).

As discussed above, the Services are modifying the text in § 402.14(g)(7) to clarify that ''reasonable certainty'' is the standard that applies to determine when the Services issue an incidental take statement. The proposed rule did not propose this specific change, but the proposed rule definition of *programmatic incidental take statement* included the concept of ''reasonable certainty'' as the applicable standard for incidental take, and commenters specifically requested the Services to clarify the applicable standard, including many commenters that specifically asserted that ''reasonable certainty'' is the applicable standard. The Services, therefore, are taking this opportunity to clarify the regulatory language in § 402.14(g)(7) from ''if such take *may* occur'' to ''if such take *is reasonably certain* to occur'' (emphasis added). As explained above, the Services do not consider this change to be substantive, but rather a clarification of the existing standard for issuance of an incidental take statement.

The proposed rule included adding a sentence to § 402.14(i)(3) intended to clarify that monitoring project impacts to a surrogate meets the requirement for monitoring the impacts of incidental take on the listed species. Upon further consideration, the Services concluded this sentence is unnecessary as the requirement is already reflected in the existing regulatory language. *See* 50 CFR 402.14(i)(1)–(3) (monitoring and reporting ''impacts on the species'' includes amount or extent of take and therefore surrogates). The Services are making a technical change to § 402.14(i)(3) to update the citations to the NMFS regulations at the end of that provision from ''50 CFR 220.45 and 228.5'' to ''50 CFR 216.105 and 222.301(h)''. These provisions were moved within the Code of Federal Regulations but never updated in § 402.14(i)(3).

Response to Public Comments

As noted above, the Services received a total of 64 public comments in response to the proposed rule. For the

reasons discussed above, the Services withdrew the proposed regulatory definition of *programmatic incidental take statement* in this final rule. On that basis, we are not responding to public comments on this aspect of the proposed rule except as they relate to the standards for development of an incidental take statement. We also are not responding to public comments beyond the scope of the proposed rule, including those comments that addressed other portions of the section 7 consultation regulations not related to the formulation of incidental take statements. The following responses to public comments are segregated under four categories: (1) General; (2) the standards for anticipating take; (3) incidental take statements for programmatic actions; and (4) the use of surrogates to express the amount or extent of take.

General

Issue 1: Several commenters requested an extension of the public comment period.

Response: The Services believe the 60-day public comment period provided adequate opportunity for the public to review and comment on the proposed regulations.

Issue 2: One commenter stated that the proposed changes to the section 7 regulations are not within the Services' regulatory authority.

Response: The Services regard the proposed changes as fully consistent with their discretionary authority to address ambiguous aspects and challenging issues that arise under section 7 of the ESA.

Congress included the incidental take statement provisions in the 1982 amendments to the ESA to resolve the situation in which a Federal action agency or an applicant has been advised by the Services that the proposed action is not likely to jeopardize the continued existence of listed species but is anticipated to result in the taking of listed species incidental to that action, which would otherwise violate the take prohibition of section 9. *See* H.R. Rep. 97–567, 26–27 (1982). According to the legislative history of the ESA, by requiring the Services to specify the impact of take on the listed species, Congress also intended reinitiation triggers (amount or extent of take) to be required as part of the incidental take statement. *See id.*

The ESA is sufficiently ambiguous to allow the Services to adopt a statutory interpretation that supports not providing an incidental take statement for a framework programmatic action, as appropriate. *See Chevron USA, Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837, 865–66 (1984). First, the definition of ''take'' itself contemplates immediate actions that would potentially injure a listed species (''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect'' (16 U.S.C. 1532(19)). The programmatic (framework) action by itself and by definition under this rule does not authorize any actions that would result in these sorts of immediate injuries to a listed species. No take will occur at the programmatic level, and any take that results will result only from a second (or subsequent) authorization under the programmatic action. As discussed above, framework programmatic actions may include authorization for actions that will not be subject to further Federal authorization or section 7 consultation and are reasonably certain to cause take. Under those circumstances, an incidental take statement would be necessary for that portion of the framework programmatic action. The Services have included recognition of this circumstance in the regulatory definition of *mixed programmatic action* in this final rule.

Given the step-wise nature of such programmatic actions, sections 7(b)(4) and 7(o)(2) of the ESA can be read to support not providing an incidental take statement at the programmatic level under these circumstances. If incidental take is anticipated to result at this stage, section 7(b)(4) appears to require the Services to issue an incidental take statement (''the Secretary *shall* provide the Federal agency and applicant . . . with a written statement'') (16 U.S.C. 1536(b)(4) (emphasis added). Although section 7(b)(4) does not expressly require a finding that incidental take is anticipated to result from the agency action, the three requirements that must be met before an incidental take statement is issued implicitly suggest this. *See* 16 U.S.C. 1536(b)(4)(B) (''*the taking* of an endangered species or a threatened species incidental to the agency action will not violate such subsection'') (emphasis added). These provisions provide room for the Services to adopt the position that take will not result at the programmatic (framework) level in and of itself since no specific action is authorized when the program is adopted. Any take that will result from the program will be addressed, as appropriate, when a subsequent specific action(s) is authorized and the resulting action-specific consultation occurs. Because of the framework nature of the programmatic actions at issue, the Services are not avoiding the duty to provide an incidental take statement—any take resulting from the subsequent actions under program will be addressed in the later action-specific consultation. Not providing a take-related reinitiation trigger under an incidental take statement for the framework programmatic action is supportable given the Services' position that take is not anticipated at the program (framework) level in the particular circumstance where no specific action is authorized until a subsequent action developed under the framework is taken and subsequent ESA consultation occurs. Also, for decisions adopting framework programmatic actions that also authorize actions to proceed without any further Federal authorization or section 7 consultation anticipated, an incidental take statement is required under this rule where the action is determined to be compliant with section 7(a)(2) and take is reasonably certain to occur. An example of such actions might include Federal programs in which subsequent approval for actions proceeding under the program are delegated to States.

As defined in this rule and discussed above, a mixed programmatic action may include authorization for actions that will not be subject to further Federal authorization or section 7 consultation and are reasonably certain to cause take. Under those circumstances, an incidental take statement would be necessary for that portion of the programmatic action. The Services have included recognition of this circumstance in the regulatory definition of *mixed programmatic action* in this final rule. Examples of mixed programmatic action would include land management plans in which particular actions, such as establishment of campgrounds or off-road vehicle use, are approved to proceed directly, while the plan itself provides a framework for the development of future actions occurring in the action area that are authorized, funded, or carried out at a later time and subject to section 7 consultation requirements, as appropriate.

Section 7(o)(2) of the ESA supports the Services' interpretation because it appears to contemplate only a single incidental take statement to fully exempt take. The language of section 7(o)(2) provides ''any taking that is in compliance with the terms and conditions [of an incidental take statement] . . . shall not be considered to be a prohibited taking.'' (16 U.S.C. 1536(o)(2)). If the Services were to provide an incidental take statement for a framework programmatic action where any take will result only from future

authorizations under the programmatic (framework) action, the Services would still require a second incidental take statement for those subsequent actions because that is the point at which adequate information typically would be available to identify amount or extent of take and to provide action-specific terms and conditions. Requiring an incidental take statement for the framework programmatic action to fully exempt the take associated with implementing the program or framework, however, may be inconsistent with section 7(o)(2), which exempts ''any taking'' that complies with the terms and conditions of the incidental take statement (emphasis added). Thus, not providing an incidental take statement at the program (framework) level avoids a potential inconsistency with the language of section 7(o)(2).

Additionally, as discussed above, the language of the ESA leaves sufficient room to draw a distinction between ''effects'' and ''take'' at the programmatic scale, and thus to allow for an analysis of program implementation as part of the ''effects'' of a framework programmatic action but not to provide an incidental take statement at the program (framework) level. The ESA itself uses different terms in specifying the contents of a biological opinion for jeopardy purposes (''detail how the agency action *affects* the species'') and an incidental take statement (focused on ''*take*''). *See* 16 U.S.C. 1536(b)(3)(A), (b)(4) (emphasis added). The ESA also does not define ''affects'' in any way. Thus, it is up to the Services to fill in these statutory gaps in the ESA in a reasonable way. *See National Cable & Telecommunications Ass'n.* v. *Brand X Internet Services,* 545 U.S. 967 (2005).

Likewise, the use of surrogates in an incidental take statement is an exercise of the Services' reasonable discretion in carrying out their responsibilities under section 7 of the ESA. The statutory language associated with reinitiation triggers is quite general, providing that as part of an incidental take statement the Services shall ''specif[y] the impact of such incidental taking on the species'' (16 U.S.C. 1536(b)(4)(i)). This language leaves substantial room for statutory interpretation on the part of the Services, including the use of surrogates.

The legislative history of the 1982 amendments to the ESA, which added the incidental take statement provisions, reflects congressional support for the use of surrogates as well. Congress recognized that a numerical value would not always be available and intended that such numbers be established only where possible (H.R. Rep. No. 97–567, at 27).

In practice, over the last 25 years of developing incidental take statements, the Services have found that in many cases the biology of the listed species or the nature of the proposed action makes it impractical to detect or monitor take of individuals. In those situations, evaluating impacts to a surrogate such as habitat, ecological conditions, or similar affected species may be the most reasonable and meaningful measure of assessing take of listed species and is fully consistent with the language and purposes of the ESA.

The courts have also recognized that it is not always practicable to establish the precise number of individuals that will be taken. Thus under a *Chevron* analysis, the ESA permits the Services to rely upon surrogate measures to establish the impact of take on the species if there is a link between the surrogate and take. *See Arizona Cattle Growers' Ass'n* v. *U.S. Fish and Wildlife Service,* 273 F.3d 1229 (9th Cir. 2001); *see also Oregon Natural Resource Council* v. *Allen,* 476 F.3d 1031, 1041 (9th Cir. 2007). It is often more practical and meaningful to monitor project effects upon surrogates, which can also provide a clear standard for determining when the amount or extent of anticipated take has been exceeded and consultation should be reinitiated. Accordingly, the Services have already exercised their discretionary authority to adopt the use of surrogates as part of our joint national policy for preparing incidental take statements in the Section 7 Handbook (Services 1998).

Issue 3: Commenters noted that the proposed rule is subject to the requirements of the National Environmental Policy Act (NEPA), including the requirements applicable to environmental impact statements, that must be satisfied before a final decision is made on the proposed regulatory changes.

Response: The categorical exclusions at 43 CFR 46.210(i) and NOAA Administrative Order 216–6, section 6.03c.3(i) apply to this joint rule. Among other things, the exclusions apply to regulations that are of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process either collectively or case by case. 43 CFR 46.210.

The Services have determined that this final rule will not result in any reasonably foreseeable effects to the environment and, therefore, that further NEPA review is not required. First, the rule codifies existing practices and case law with respect to use of surrogates and this codification of the status quo does not result in foreseeable environmental effects. Second, the timing of issuance of the incidental take statement will not change the substantive protections afforded to species and therefore the Service's regulations do not change the on-the-ground effects of incidental take statements. Finally, the update to the regulations does not result in environmental impacts because it merely clarifies the Services' longstanding position since the Ninth Circuit's decision in *Arizona Cattle Growers' Ass'n.* that an incidental take statement may be issued only when there is ''reasonable certainty'' that take of listed species will occur.

To the extent the rule would result in reasonably foreseeable environmental effects, the Services have determined that the rule is categorically excluded from further NEPA review and that no extraordinary circumstances are present. The rule qualifies for two categorical exclusions listed at 43 CFR 46.210(i) and NOAA Administrative Order (NAO) 216–6, section 6.03c.3(i). Among other things, the exclusions apply to regulations that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case by case. 43 CFR 46.210. *See also* NAO section 216–6 6.03c.3(i) (substantively the same exclusion).

First, the rule is of a legal, technical, or procedural nature. For surrogates, the rule clarifies when the Services may use a surrogate to establish the amount or extent of take. This clarification is consistent with the Services' existing national policy and applicable case law. For programmatic actions, the rule clarifies the procedural timing of when the Services will issue an incidental take statement. It does not alter substantive protections. Finally, the rule codifies the Services' longstanding interpretation of their existing regulations post *Arizona Cattle Growers' Ass'n.* that an incidental take statement can be issued only if there is ''reasonable certainty'' that take will occur.

Second, any potential impacts of this rule are too broad, speculative, and conjectural to lend themselves to meaningful analysis and will be examined as part of any NEPA analysis conducted by the Federal action agency.

As explained above, the changes in the rule generally constitute clarifications that are consistent with existing practices as well as case law. As such, it would be speculative to try to analyze the effects of the codification of these practices. Furthermore, these changes apply to the nationwide implementation of section 7 consultations, which take place in a wide variety of contexts, for various activities, for and with numerous action agencies. This application allows analysis only at the broadest level and would not permit meaningful analysis. Furthermore, before any action is taken, the responsible action agency will be required to conduct any necessary NEPA analyses, including impacts to listed species and critical habitat. For these reasons, the second categorical exclusion applies to this rule.

Additionally, none of the extraordinary circumstances listed at 43 CFR 46.215 and NAO 216–6 section 5.05c are triggered by the final rule. This rule does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, will not result in uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not have significant cumulative impacts, and will not have any adverse effects upon endangered or threatened species or their habitats for the reasons identified above.

In making this determination, the Services have considered whether adequate opportunities for public comment on the rule, including its potential environmental effects, have been provided. Our review of the proposed rule and the comments received on that proposal demonstrated that preparation of an Environmental Assessment is not necessary to obtain public input on this rule. Commentators had the opportunity to weigh in on the various aspects of this final rule and the final rule has been shaped, in part, by those comments. We conclude that preparation of an Environmental Assessment would not result in meaningful additional opportunities for comment, nor would it be likely to provide the Services with significant additional information to guide their decisionmaking process.

Issue 4: One commenter requested that the Services include the concept of a ''cumulative'' incidental take statement in the incidental take statement rulemaking.

Response: The statutory purposes and features of incidental take statements are discussed above in the preamble. As reflected in that discussion, incidental take statements are proposed-action specific. While biological opinions examine aggregate or cumulative impacts as part of the jeopardy and adverse modification analyses consistent with the best scientific and commercial data available (*see, e.g.,* Services' Section 7 Handbook, at 4–33), incidental take statements do not, nor are they required to, include such analyses. Additionally, an incidental take statement may be issued only if the proposed action avoids jeopardizing the species or adversely modifying its critical habitat. *See* 16 U.S.C. 1536(b)(4).

The Standards for Anticipating Take

Issue 1: Several commenters requested the Services to clarify the standards for issuing an incidental take statement.

Response: As noted above, in accordance with the ESA, the Services must provide an incidental take statement in a biological opinion in cases where we have concluded that a proposed Federal action will not violate section 7(a)(2) and take of listed species caused by the action is reasonably certain to occur. As discussed above, the Services are clarifying 50 CFR 402.14(g)(7) to clarify that reasonable certainty is the standard. Additionally, for framework programmatic actions, the Services are also clarifying that an incidental take statement is not required at the program (framework) level for those actions falling within the definition of *framework programmatic action.*

In general, the standards for incidental take statements in the current regulations at 50 CFR 402.14(i) continue to apply as well as the standards associated with national policy for incidental take statements found on pages 4–43 through 4–58 of the Services' Section 7 Handbook (Services 1998).

In accordance with those standards and consistent with governing case law and our regulations, the Services' general approach to incidental take statements is summarized below:

Take is specifically defined in the regulations. For example, the terms ''harm'' and ''harass'' have specific meanings, and they are not synonymous (*i.e.,* FWS harm and harass at 50 CFR 17.3; NMFS harm at 50 CFR 222.102). The effects analysis in a biological opinion should discuss, as appropriate, the anticipated effects of an action on listed species in biological terms that relate to the regulatory definitions of take. Similarly, the incidental take statement portion of a biological opinion should reflect the proper use of take terminology.

If a proposed action includes a reasonable certainty of take, the biological opinion needs to make a rational connection between the effects of the action and the take considered in the incidental take statement. The terms and conditions must have a rational connection to the taking of a species and must give clear guidance to the recipient of the incidental take statement of what is expected and how the conditions (including those for monitoring of take-related impacts caused by the action) can be met.

Issue 2: One commenter requested the Services to clarify if an incidental take statement for a program-level action can include an amount or extent of take if the analysis of the effects of the action supports such a finding.

Response: Yes, if the Services have determined that incidental take is reasonably certain to occur and that such take will not violate section 7(a)(2) of the ESA.

Issue 3: One commenter noted that if a jeopardy determination can be made for a programmatic action, then quantification of anticipated take in an incidental take statement should also be possible.

Response: As discussed in the preamble above, a meaningful effects analysis within a biological opinion may appropriately rely upon qualitative analysis to determine whether a framework programmatic action, inclusive of any proposed measures to minimize adverse impacts or conserve listed species, is adequately protective for purposes of making a jeopardy determination. Biological opinions on such programs often examine how the parameters of the program align with the survival and recovery of listed species. These assessments are often qualitative and do not provide the sort of specificity required for the purposes of incidental take statements. See the related discussion above in the section entitled ''Provision of an Incidental Take Statement with a Biological Opinion for Programmatic Actions.''

Issue 4: Several commenters requested the Services to affirm that reasonable and prudent measures in an incidental take statement must respect the ''minor change'' rule.

Response: The Services find that the text in the current regulations under § 402.14(i)(2) is clear and sufficient in this regard, and no changes are warranted. Reasonable and prudent measures and the terms and conditions that implement them cannot alter the basic design, location, scope, duration,

or timing of the action and may involve only minor changes.

Programmatic Actions

Issue 1: Several commenters requested the Services to more clearly express the regulatory definition of *programmatic action* and to more clearly explain why this term needs to be defined in the regulations.

Response: After considering public comments and internal review, the Services are modifying the term and definition of *programmatic action* in this final rule. The term *framework programmatic action* is added to 50 CFR 402.02 and includes, for purposes of an incidental take statement, a Federal action that approves a framework for the development of future actions that are authorized, funded, or carried out and subject to section 7 requirements at a later time. The term *mixed programmatic action* and its definition are also added to 50 CFR 402.02 in this final rule to further distinguish the forms of programmatic actions that may be developed by Federal agencies. See discussion above for further detail regarding *framework* and *mixed programmatic actions* in the section entitled ''Inclusion of an Incidental Take Statement in a Biological Opinion for Programmatic Actions.''

Issue 2: Several commenters requested the Services to more clearly define key phrases in the proposed rule, including those for *programmatic action* and *site-specific.*

Response: For *programmatic action,* see the response to Issue 1 above. The regulatory language of the rule no longer uses the term ''site-specific.'' In the Services' view, that term unnecessarily narrowed the definition of the types of programmatic actions to which this rule is intended to apply.

Issue 3: One commenter requested the Services to clarify if programmatic actions covered under a Habitat Conservation Plan (HCP) permit issued under section 10(a)(1)(B) of the ESA fall within the scope of the proposed regulatory definition of *programmatic action.*

Response: The Services anticipate that an HCP covering programmatic actions by non-Federal parties (*e.g.,* States, local governments, private citizens) generally would not fall under the definition of framework programmatic action established by this rule. The Federal action involved in an HCP is the issuance of a section 10(a)(1)(B) permit, and it is this action that is the subject of a biological opinion and incidental take statement. Such a permit generally is not expected to fall under the definition of framework programmatic action discussed herein since it is the underlying State/local/private action that is programmatic in nature, not the Federal permit itself, which is subject to consultation.

Issue 4: Several commenters noted that the proposed rule fails to establish clear standards for programmatic actions and creates an ''enormous loophole in the consultation process that will harm listed species.''

Response: Based on the revisions and clarifications of the proposed rule in this final rule, the Services endeavor to articulate more clearly when an incidental take statement is required for programmatic actions. Additionally, as noted above in the response to Issue 1 in the subsection titled ''The Standards for Anticipating Take,'' an incidental take statement can be provided only where the Services have concluded in a biological opinion that a proposed Federal action and the resultant incidental take will not violate section 7(a)(2). This scenario is the same for both programmatic actions and project-specific actions that fall under such programs, which ensures that no loophole is created.

Issue 5: One commenter requested the Services to clarify the standards that will be applied to develop incidental take statements for site-specific actions authorized under a programmatic action, especially those related to monitoring of take-related impacts.

Response: The Services note that we are no longer using the term ''site-specific actions'' in our definitions for programmatic action. In general, for actions proceeding under a program that are anticipated to be subject to a subsequent section 7 consultation, the standards for incidental take statements in the current regulations at 50 CFR 402.14(i) would continue to apply as well as the standards associated with national policy for incidental take statements found on pages 4–43 through 4–58 of the Services' Section 7 Handbook. For a more detailed discussion of these standards, see the response to Issue 1 under ''The Standards for Anticipating Take'' above.

Use of Surrogates

Issue 1: One commenter suggested that the Services not require an incidental take statement to explain the causal link between the effects of an action to a surrogate and take of listed species under the proposed changes to § 402.14(i)(1)(i) but rather use the agency record of decision to explain how those standards are met. At the very least, the commenter requested the Services to delete reference to ''clear'' in relation to setting a standard for determining when the level of anticipated take in terms of a surrogate has been exceeded because the word ''clear'' ''implies an extra burden on the agency to provide particular detail about the standard'' that may make the Services vulnerable to assertions that a take reinitiation trigger is not clear enough.

Response: The requirement for the Services to explain the causal link is consistent with the Services' current national section 7 policy (*see* page 4–47 of the Services' Section 7 Handbook) and current case law. Additionally, in the section 7 context, the Services do not issue a record of decision; we issue a biological opinion and incidental take statement, which is the appropriate place to address the causal link between anticipated take and an identified surrogate. The Services have retained the word ''clear'' in § 402.14(i)(1)(i) of the regulations because that term best conveys the intent to ensure the standard is understandable to the holder of the incidental take statement.

Issue 2: Several commenters were concerned about the Services' proposed regulatory criteria for the use of surrogates to characterize the amount or extent of anticipated take and requested the Services to better define clear standards for the use of surrogates and subsequent monitoring. Some commenters suggested that these standards be less specific, and others suggested that they be more specific.

Response: The standards for the use of surrogates, as finalized in this rule, are consistent with relevant case law and the Services' national policy on the use of surrogates (*see* page 4–47 of the Services' Section 7 Handbook), which has been in effect since 1998.

Issue 3: One commenter objected to the Services' proposed regulatory authorization for the use of surrogates to address habitat surrogates that are fully coextensive with any aspect of the proposed project's impacts on habitat because such a provision is at odds with the Ninth Circuit's decision in *Oregon Natural Res. Council* v. *Allen,* 476 F.3d 1031 (9th Cir. 2007).

Response: The Services consider a ''coextensive'' surrogate to be a surrogate that adopts a portion of a proposed action as a trigger for reinitiation. Coextensive surrogates allowed for by this rule adequately fulfill their role as independent reinitiation triggers because the monitoring and reporting requirements of the incidental take statement will be structured to ensure timely reporting of project impacts to a surrogate to ensure timely reinitiation of formal consultation, as appropriate, in the same

way as for non-coextensive surrogates. The preamble provides additional discussion illustrating how a coextensive surrogate may fulfill its intended function as an independent trigger for reinitiation. A surrogate that did not fulfill this role would not meet the requirements of this rule.

Issue 4: Several commenters requested the Services to more clearly describe the meaning of ''not practical,'' ''clear standard,'' and ''causal link'' as these terms are applied in the use of surrogates.

Response: The Services considered this comment in finalizing the preamble discussion on the use of surrogates and believe each of these terms is clearly described in a manner that is consistent with existing case law and the Services national policy on the use of surrogates (*see* page 4–47 of the Services' Section 7 Handbook), which has been in effect since 1998.

Issue 5: Several commenters requested the Services to clarify that take of a surrogate is not a violation of section 9 of the ESA.

Response: The Services affirm that take of a surrogate is not, in and of itself, a violation of sections 9(a)(1)(B), (C), or (G) of the ESA. Any efforts to prosecute a violation of the take prohibitions would be based on applying the appropriate evidentiary standards to support either a civil or criminal action. A surrogate functions to provide a trigger for reinitiation of consultation under § 402.16(a). If the amount or extent of take is represented by a surrogate and the level of anticipated impact to that surrogate is exceeded, reinitiation may be required consistent with the terms of § 402.16. The availability of the take exemption afforded by the incidental take statement is governed by compliance with the reasonable and prudent measures and terms and conditions contained in the statement. Provided the holder of the incidental take statement is in compliance with all terms and conditions, the take exemption remains in place even if the extent of take as described by a surrogate is exceeded (16 U.S.C. 1536(o)(2); 50 CFR 402.14(i)(5)). However, if the extent of take is exceeded, the regulations require the action agency to immediately reinitiate consultation (50 CFR 402.14(i)(4)).

Issue 6: Several commenters recommended the Services to replace the ''not practical'' standard in the proposed change to § 402.14(i)(1)(i) with a ''scientifically impractical'' standard.

Response: The Services decline to make this change. The Services consider the best scientific and commercial data available in determining whether it is not practical to express the amount of take in terms of individuals of the listed species. In making this determination, the Services must take into account relevant considerations, some of which may be considered broader than ''scientifically impractical,'' such as the scope and scale of the proposed action relative to the costs of any monitoring necessary to determine take of individuals of the listed species from the action.

Issue 7: One commenter recommended that the Services delete reference to examples of surrogates in the proposed change to § 402.14(i)(1)(i) because it may be interpreted as an unnecessary limit on the types of surrogates that may be used in an incidental take statement. Another commenter suggested that reference to examples of surrogates should be done only in the preamble section of the rule.

Response: The use of examples in this rule is not intended to limit use of surrogates, and any surrogate that meets the standards set forth in this rule would be available.

Issue 8: One commenter noted that the use of surrogates in incidental take statements should be done sparingly and under very narrow circumstances to avoid misapplication.

Response: As discussed in the preamble, the use of surrogates is fact-pattern specific and dependent on meeting the standards set forth in this rule.

Issue 9: One commenter requested the Services to further condition the proposed regulatory standards for the use of surrogates to include a requirement under an incidental take statement to gather data during the term of the Federal action to confirm that effects to the surrogate and the listed species that conform to take are highly likely to correspond.

Response: Pursuant to this final rule, use of a surrogate in an incidental take statement is predicated on a finding that measuring take impacts to a listed species is not practical and on establishing a link, based on best available scientific information, between effects of the action to a surrogate and take of the listed species. The Services acknowledge that the body of science relied upon to make that link is likely to vary on a listed species-specific basis. To the extent that a link can be reasonably established, but more information would be helpful, the Services can request the Federal agency or an applicant to collect additional information in the ''Conservation Recommendations'' section of a biological opinion (*see* pages 4–62 and 4–63 in the Services' Section 7 Handbook). Implementation of the suggested requirement for such information as part of an incidental take statement, if appropriate, would need to comply with the regulatory requirement under § 402.14(i)(2) for the scope of reasonable and prudent measures and terms and conditions to involve only minor changes to the proposed Federal action.

It should also be noted that, in many cases, the surrogate used by the Services in an incidental take statement is habitat or a component of the habitat of the listed species. In those situations, the science related to the habitat requirements and behavior of the listed species informs the analytical basis for findings by the Services that a proposed action is reasonably certain to cause take of the listed species and establishes a causal link between effects to habitat and take of the listed species. For these reasons, quantifying and monitoring take impacts via project effects to the habitat of the listed species is a scientifically credible and practical approach for expressing and monitoring the anticipated level of take for situations where use of a surrogate meets the criteria set forth in this rule. In those instances where insufficient information exists to confirm the causal link, the surrogate would not meet the standard for its use in an incidental take statement. As noted above, the Services can request additional information on such a link in the ''Conservation Recommendations'' section of a biological opinion (*see* pages 4–62 and 4–63 in the Services' Section 7 Handbook).

The Services intend to prepare implementation guidance for the use of surrogates to supplement the discussion in the Services' Section 7 Handbook and will consider the recommendations provided in public comments as well as in a recent commentary by Murphy and Weiland (2014) on our proposed rule.

Issue 10: Several commenters requested the Services clarify if effects to habitat, including designated critical habitat, could be used as a surrogate measure for the amount or extent of anticipated take in an incidental take statement.

Response: Effects to habitat can be used as a surrogate for expressing the amount or extent of take of a listed species if the criteria set forth in this final rule are met.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory

Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency, or his or her designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

Incidental take statements describe the amount or extent of incidental take that is anticipated to occur when a Federal action is implemented. The incidental take statement conveys an exemption from the ESA's take prohibitions provided that the action agency (and any applicant) complies with the terms and conditions of the incidental take statement. Terms and conditions cannot alter the basic design, location, scope, duration, or timing of the action and may involve only minor changes (50 CFR 402.14(i)(2)). The regulatory changes addressed in this rule will neither expand nor contract the reach of terms and conditions of an incidental take statement. As such, we foresee no economic effects from implementation of this final rule.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This final rule will not ''significantly or uniquely'' affect small governments. We have determined and certify under the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected because the revised regulations will not place additional requirements on any city, county, or other local municipalities.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). This regulation would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with E.O. 12630, we have determined that the final rule does not have significant takings implications. A takings implication assessment is not required because this rule (1) will not effectively compel a property owner to suffer a physical invasion of property and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with E.O. 13132, we have considered whether this final rule has significant Federalism effects and have determined that a Federalism assessment is not required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments would not change; and fiscal capacity would not be substantially directly affected. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a Federalism Assessment under the provisions of E.O. 13132.

Civil Justice Reform (E.O. 12988)

This final rule will not unduly burden the judicial system and meets the applicable standards provided in sections (3)(a) and (3)(b)(2) of E.O. 12988.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with affected Federally recognized Tribes on a government-to-government basis. We have determined that there are no tribal lands affected by this rule, and, therefore, no such communications were made.

Paperwork Reduction Act

This final rule does not contain collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The Services have determined that this final rule will not result in any reasonably foreseeable effects to the environment and, therefore, that further NEPA review is not required. First, the rule codifies existing practices and case law with respect to use of surrogates and this codification of the status quo does not result in foreseeable environmental effects. Second, the timing of issuance of the incidental take statement will not change the substantive protections afforded to species and therefore the Service's regulations do not change the on-the-ground effects of incidental take statements. Finally, the update to the

regulations does not result in environmental impacts because it merely clarifies the Services' longstanding position since the Ninth Circuit's decision in *Arizona Cattle Growers' Ass'n.* that an incidental take statement may be issued only when there is ''reasonable certainty'' that take of listed species will occur.

To the extent the rule would result in reasonably foreseeable environmental effects, the Services have determined that the rule is categorically excluded from further NEPA review and that no extraordinary circumstances are present. The rule qualifies for two categorical exclusions listed at 43 CFR 46.210(i) and NOAA Administrative Order (NAO) 216–6, section 6.03c.3(i). Among other things, the exclusions apply to regulations that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case by case. 43 CFR 46.210. *See also* NAO section 216–6 6.03c.3(i) (substantively the same exclusion).

First, the rule is of a legal, technical, or procedural nature. For surrogates, the rule clarifies when the Services may use a surrogate to establish the amount or extent of take. This clarification is consistent with the Services' existing national policy and applicable case law. For programmatic actions, the rule clarifies the procedural timing of when the Services will issue an incidental take statement. It does not alter substantive protections. Finally, the rule codifies the Services' longstanding interpretation of their existing regulations post *Arizona Cattle Growers' Ass'n.* that an incidental take statement can be issued only if there is ''reasonable certainty'' that take will occur.

Second, any potential impacts of this rule are too broad, speculative, and conjectural to lend themselves to meaningful analysis and will be examined as part of any NEPA analysis conducted by the Federal action agency. As explained above, the changes in the rule generally constitute clarifications that are consistent with existing practices as well as case law. As such, it would be speculative to try to analyze the effects of the codification of these practices. Furthermore, these changes apply to the nationwide implementation of section 7 consultations, which take place in a wide variety of contexts, for various activities, for and with numerous action agencies. This application allows analysis only at the broadest level and would not permit meaningful analysis. Furthermore, before any action is taken, the responsible action agency will be required to conduct any necessary NEPA analyses, including impacts to listed species and critical habitat. For these reasons, the second categorical exclusion applies to this rule.

Additionally, none of the extraordinary circumstances listed at 43 CFR 46.215 and NAO 216–6 section 5.05c are triggered by the final rule. This rule does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, will not result in uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not have significant cumulative impacts, and will not have any adverse effects upon endangered or threatened species or their habitats for the reasons identified above.

In making this determination, the Services have considered whether adequate opportunities for public comment on the rule, including its potential environmental effects, have been provided. Our review of the proposed rule and the comments received on that proposal demonstrated that preparation of an Environmental Assessment is not necessary to obtain public input on this rule. Commentators had the opportunity to weigh in on the various aspects of this final rule and the final rule has been shaped, in part, by those comments. We conclude that preparation of an Environmental Assessment would not result in meaningful additional opportunities for comment, nor would it be likely to provide the Services with significant additional information to guide their decisionmaking process.

Energy Supply, Distribution or Use (E.O. 13211)

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Because this action is not a significant energy action, no Statement of Energy Effects is required.

Authority

We are taking this action under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 402

Endangered and threatened wildlife, Fish, Intergovernmental relations, Plants (agriculture).

Regulation Promulgation

Accordingly, we amend subpart B of part 402, subchapter A of chapter IV, title 50 of the Code of Federal Regulations, as set forth below:

PART 402—[AMENDED]

■ 1. The authority citation for part 402 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

■ 2. Amend § 402.02 by adding definitions for *Framework programmatic action* and *Mixed programmatic action* in alphabetical order to read as follows:

§ 402.02 Definitions.

* * * * *

Framework programmatic action means, for purposes of an incidental take statement, a Federal action that approves a framework for the development of future action(s) that are authorized, funded, or carried out at a later time, and any take of a listed species would not occur unless and until those future action(s) are authorized, funded, or carried out and subject to further section 7 consultation.

* * * * *

Mixed programmatic action means, for purposes of an incidental take statement, a Federal action that approves action(s) that will not be subject to further section 7 consultation, and also approves a framework for the development of future action(s) that are authorized, funded, or carried out at a later time and any take of a listed species would not occur unless and until those future action(s) are authorized, funded, or carried out and subject to further section 7 consultation.

* * * * *

■ 3. Amend § 402.14 by:

■ a. Revising paragraphs (g)(7) and (i)(1)(i);

■ b. Revising the second sentence of paragraph (i)(3); and

■ c. Adding paragraph (i)(6).

The revisions and additions read as follows:

§ 402.14 Formal consultation.

* * * * *

(g) * * *

(7) Formulate a statement concerning incidental take, if such take is reasonably certain to occur.

* * * * *

(i) * * *

(1) * * *

(i) Specifies the impact, *i.e.,* the amount or extent, of such incidental taking on the species (A surrogate (*e.g.,* similarly affected species or habitat or ecological conditions) may be used to express the amount or extent of anticipated take provided that the biological opinion or incidental take statement: Describes the causal link between the surrogate and take of the listed species, explains why it is not practical to express the amount or extent of anticipated take or to monitor take-related impacts in terms of individuals of the listed species, and sets a clear standard for determining when the level of anticipated take has been exceeded.);

* * * * *

(3) * * * The reporting requirements will be established in accordance with 50 CFR 13.45 and 18.27 for FWS and 50 CFR 216.105 and 222.301(h) for NMFS.

* * * * *

(6) For a framework programmatic action, an incidental take statement is not required at the programmatic level; any incidental take resulting from any action subsequently authorized, funded, or carried out under the program will be addressed in subsequent section 7 consultation, as appropriate. For a mixed programmatic action, an incidental take statement is required at the programmatic level only for those program actions that are reasonably certain to cause take and are not subject to further section 7 consultation.

* * * * *

Dated: December 23, 2014.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior.

Dated: April 30, 2015.

Samuel D. Rouch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–10612 Filed 5–8–15; 8:45 am]

BILLING CODE 4310–55–3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 90
Monday, May 11, 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 235

[FNS 2014–0011]

RIN 0584–AE30

Administrative Reviews in the School Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: In accordance with provisions of the Healthy, Hunger-Free Kids Act of 2010, this proposed rule would revise the State agency's administrative review process to establish a unified accountability system designed to ensure that participating school food authorities comply with the National School Lunch Program and School Breakfast Program requirements. The proposed administrative review process would include new procedures, retain key existing requirements from the Coordinated Review Effort and the School Meals Initiative, provide new review flexibilities and efficiencies for State agencies, and simplify fiscal action procedures. In addition to the new administrative review process, this rule proposes to require State agencies to report and publicly post school food authorities' administrative review results. These proposed changes are expected to strengthen program integrity through a more robust, effective, and transparent process for monitoring school nutrition program operations.

DATES: To be assured of consideration, written comments on this proposed rule must be received by July 10, 2015.

ADDRESSES: The Food and Nutrition Service (FNS), USDA, invites interested persons to submit written comments on this proposed rule. Comments must be submitted through one of the following methods:

- *Preferred method:* Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Mailed comments on this proposed rule must be postmarked on or before July 10, 2015 to be assured of consideration. Send mailed comments to Julie Brewer, Child Nutrition Policy and Program Development Division, Food and Nutrition Service, Department of Agriculture, 3101 Park Center Drive, Room 1212, Alexandria, Virginia 22302–1594.

Comments received by other methods will not be accepted. All comments received by the methods listed above 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. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lynn Rodgers-Kuperman, Child Nutrition Monitoring and Operations Support Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302; telephone: (703) 605–3223.

SUPPLEMENTARY INFORMATION:

I. Background

Federally supported school nutrition programs are operated each school day in 54 States, by more than 100,000 schools and Residential Child Care Institutions. Ensuring that the programs are being carried out in the manner prescribed in statute and regulation is a key administrative responsibility at every level. Federal, State and local program staff share in the responsibility to ensure that all aspects of the programs are conducted with integrity and that taxpayer dollars are being used as intended.

Improving program integrity and reducing improper payments has been a long-standing priority for the Department of Agriculture (USDA). Periodic evaluations of program errors, including the Access, Participation, Eligibility and Certification (APEC) studies, show that improper payments result from errors made in the processes used to determine eligibility for free or reduced price meals, as well as from errors made during daily program operations and meal service. USDA and its State agency partners have invested significant effort in system improvements and process reforms over the last several years that are expected to improve integrity and deliver long-term reductions in error rates. These efforts include on-going technical assistance and implementation of reforms made by Public Law 111–296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). Along with provisions aimed at improving program access and healthier school nutrition environments, HHFKA reforms support program integrity through strengthening the use of direct certification, providing for community eligibility, establishing professional standards for school nutrition directors and staff, targeting a second review of applications in districts with high rates of application processing errors, and other provisions. USDA has already implemented the majority of these provisions through separate rulemaking. USDA has also established a new Office of Program Integrity for Child Nutrition Programs within the Food and Nutrition Service.

State agencies that administer the school meal programs play a primary role in ensuring School Food Authorities (SFAs) are properly operating the programs. In addition to training and technical assistance, State agencies are responsible for regularly monitoring SFA operations.

Nearly 25 years ago, in 1991 and 1992, USDA established regulations in 7 CFR 210.18 for an administrative review process to ensure SFAs complied with National School Lunch Program (NSLP) requirements. The process, the Coordinated Review Effort (CRE), required State agencies to conduct on-site administrative reviews of SFAs once every five years, and covered critical and general areas of review. The CRE review focused primarily on benefit eligibility, meal counting and claiming procedures, meal pattern and other general areas of compliance.

In 1995, State agencies began to evaluate the nutritional quality of school meals under USDA's School Meals Initiative (SMI). A key component of the SMI review was the State agency's nutrient analysis of the weekly school meals to determine compliance with Recommended Dietary Allowances for protein, calcium, iron and vitamins A and C; recommended minimum calorie levels; and the Dietary Guidelines for Americans.

More recently, section 207 of the HHFKA amended section 22 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1769c, to make five changes to the administrative review requirements. The first three were implemented through the final rule, *Nutrition Standards in the National School Lunch and School Breakfast Program* (77 FR 4088), which was issued January 26, 2012. Those changes involved: (1) Including both National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the administrative review; (2) confirming that the weekly meals offered meet meal patterns and dietary specifications, which made the SMI obsolete; and (3) implementing a new 3-year review cycle. This rule does not propose changes to these three previously promulgated provisions, but instead updates the administrative review procedures to reflect these changes.

This rule proposes to revise the administrative review requirements in 7 CFR 210.18 to implement the remaining two statutory provisions from section 207 of HHFKA, requiring that:

1. The administrative review process be a unified accountability system in which schools within an SFA are selected for review based on criteria established by the Secretary; and

2. State agencies report the final results of reviews, and post them or otherwise make them available to the public.

This proposed rule largely reflects the updated administrative review process developed by the School Meals Administrative Review Reinvention Team (SMARRT), a 26-member team consisting of staff from Food and Nutrition Service (FNS) Headquarters and the seven Regional Offices, and State Agency staff from Kansas, Michigan, New York, North Carolina, Oregon, Pennsylvania and Texas (representing each of the FNS Regions). FNS assembled the team to carry out HHFKA's mandate for a unified accountability system. The group worked together for one year to develop a simplified, unified monitoring process that includes new, flexible procedures and combines key aspects of the CRE and SMI reviews. The team also sought to create a comprehensive monitoring process that includes all the school nutrition programs. Another priority was to simplify review procedures in response to State agencies' needs.

The proposed administrative review process would:

- Promote overall integrity in the school nutrition programs by incorporating key requirements of the CRE and SMI reviews.
- Enable the State agency to monitor essential requirements of the NSLP snack service and seamless summer option, the Special Milk Program, and the Fresh Fruit and Vegetable Program while conducting the administrative review.
- Include recommended off-site monitoring approaches to offer State agencies the ability to conduct reviews more efficiently by incorporating off-site State agency staff with the skills needed to address specific monitoring areas.
- Include risk-based approaches to enable the State agency to target error prone areas and focus its monitoring resources on SFAs and schools needing the most compliance assistance.
- Add Resource Management to the general areas of review to better assess the financial condition of the nonprofit food service.
- Promote consistency in the review process across all States.
- Include updated, user-friendly forms; new risk assessment tools; and statistical sampling for increased State agency efficiency. The forms and tools associated with the proposed administrative review process will be addressed separately in a 60-day notice to be published in the **Federal Register** to align with the implementing administrative review rulemaking.

The main focus of the proposed administrative review under 7 CFR 210.18 would continue to be the NSLP and SBP, and the State agency would continue to perform existing review procedures but in an updated and more flexible manner. In an effort to create a unified accountability system, the State agency would also be required to monitor the NSLP afterschool snack program and seamless summer option, the Fresh Fruit and Vegetable Program, and the Special Milk Program in a manner that is consistent with the review process established in 7 CFR 210.18, as applicable. Most of the regulatory changes needed to update the administrative review process would be in 7 CFR 210.18. However, this rule would make changes throughout 7 CFR parts 210, 215, and 220 to achieve a unified accountability system for the school nutrition programs. In addition, the rule would remove the definition of ''large school food authority'' from 7 CFR 210.18, where it would no longer be needed, and add it to 7 CFR 235.2, where it would continue to apply. Detailed procedures for the new review process for the NSLP, SBP and other school meal programs are provided in the FNS *Administrative Review Manual,* which is a guidance document for the State agencies.

This proposed rule would also make several changes to the SFA regulatory requirements to complement the proposed administrative review process. First, the SFA's existing responsibilities in 7 CFR 210.14 would be clarified with regard to indirect costs as they would be specifically monitored by the State agency under the new administrative review process. Second, the SFA annual on-site monitoring of schools, required in 7 CFR 210.8, would be strengthened by incorporating readily observable general areas of review, and by extending SFA on-site monitoring to the SBP. These proposed changes are addressed in more detail later in the preamble.

This proposed rule would also make a number of miscellaneous edits to remove obsolete provisions in 7 CFR part 210, and to update wording to reflect the diversity of certification mechanisms used in school meal programs beyond the traditional collection of household applications. In addition, this rule would update the designation of a form in 7 CFR 210.5(d)(3), 7 CFR 210.20(a)(2), and 7 CFR 220.13(b)(2) by changing the references to the SF–269, final Financial Status Report, to FNS–777, as approved by the Office of Management and Budget.

While this rulemaking action is underway, FNS has allowed the following temporary review options for State agencies. Prior to the finalization of this rulemaking, State agencies may either:

1. Seek a waiver of the existing regulatory review procedures pursuant to section 12(l) of the NSLA, 42 U.S.C. 1760(l), and conduct reviews in accordance with the proposed administrative review process and the corresponding *Administrative Review Manual*; or

2. Continue with existing review procedures under 7 CFR 210.18 and the corresponding *Coordinated Review Effort Procedures Manual,* with the understanding that the proposed rule, once finalized, would require implementation of a new administrative review process.

FNS provided this flexibility to State agencies beginning in School Year 2013–2014. Almost all State agencies have requested the waiver and have adopted the new administrative review process described in this proposed rule. The new process, conducted on a shorter, 3-year cycle, has begun to generate a large volume of high value information that will strengthen FNS and State agency integrity efforts over

the long term. The data collected through the new review process will enhance the Federal and State agencies' ability to monitor program performance. Just as importantly, the data will be a resource FNS can use in its efforts to develop timely and targeted, evidence-based solutions to the recurring problems that give rise to improper payments.

FNS also anticipates that the experience of State agencies using the updated review process will contribute to informed public comments that guide the development of the implementing rule. When the implementing rule establishing the new unified administrative review system is promulgated, all State agencies will be required to follow the finalized administrative review regulations.

Note: The words ''school'' and ''site'' are used interchangeably in this proposed rule, as applicable to each program, to refer to the location where meals are served. This proposed rule also uses the term SFA to generally refer to the governing body responsible for school food service operations. However, some of those responsibilities are fulfilled by the local educational agency (LEA or district), most notably the certification and benefit issuance process, indirect costs, competitive food sales, and local wellness policies. Use of the term SFA in this proposed rule is not intended to imply the responsibilities reserved for the LEA have shifted to the SFA.

II. Overview of the Existing CRE Administrative Review

Currently, State agencies that are not conducting administrative reviews under the new process perform the following administrative review activities under the existing CRE procedures as required in the regulations in 7 CFR 210.18. Under the existing CRE procedures:

- State agencies monitor lunches, and must review breakfasts at 50 percent of the schools selected for an NSLP administrative review.
- State agencies must review each SFA once during each 3-year review cycle, with no more than four years lapsing between reviews.
- When reviewing an SFA, State agencies conduct on-site reviews of about 10% of those schools participating in the NSLP.
- The scope of administrative review covers both critical and general areas. The critical areas, termed Performance Standards 1 and 2, assess whether lunches and breakfasts claimed for reimbursement are served to children eligible for free, reduced price, and paid meals; are counted, recorded, consolidated, and reported through a system that consistently yields correct claims; and meet meal requirements. The general areas assess whether the SFA meets other program requirements related to eligibility for free and reduced price benefits, civil rights, monitoring, reporting and recordkeeping, food safety, and resource management.
- State agencies conduct a nutrient analysis of school lunches and breakfasts to assess compliance with calorie requirements, saturated fat, and sodium.
- If an SFA has critical area violations in excess of specified review thresholds, a follow-up review is conducted in all large SFAs and in at least 25 percent of small SFAs.
- The follow-up review includes the certification, count and service procedures in the Special Milk Program and the afterschool snack program operated by the reviewed schools.
- Fiscal action is required for all violations of Performance Standard 1 and specific violations of Performance Standard 2.

Most of these procedures would continue, in some manner, under the proposed rule.

III. Overview of the Key Proposed Changes to the Administrative Review

The proposed administrative review under 7 CFR 210.18 would incorporate new and key existing procedures from the CRE and SMI reviews. It streamlines existing review procedures, gives State agencies new review flexibilities, simplifies fiscal action, and includes updated review forms and new tools. This proposed rule would replace the existing CRE and SMI monitoring processes, and is expected to improve program integrity by providing a single, comprehensive, effective, and efficient State agency monitoring process. Specific procedures for conducting the proposed review process are reflected in the FNS *Administrative Review Manual.*

The key procedures carrying forward from previous CRE and SMI reviews include timing of reviews, scheduling of SFAs, number of schools to review, exit conference and notification, corrective action, withholding payment, SFA appeal of State agency findings, and FNS review activity. These provisions are found in the amendatory language and may include minor non-substantive technical changes in 7 CFR 210.18, but are not discussed in this preamble. The preamble focuses on new key proposed changes, which are discussed next.

Procedures for Conducting a Review

Off-Site and On-Site Review Activities

Under existing 7 CFR 210.18, the administrative review process is a comprehensive on-site evaluation of SFAs participating in the school meal programs. The proposed rule envisions that some administrative review activities can be conducted off-site, rather than during the on-site portion of the review. Adding the off-site approach is expected to assist the State agency by reducing the State agency's travel time and expense, enabling the State agency to conduct the documentation review and other existing review requirements over a longer period of time than would be possible while on-site, and allowing the reviewer to seek input from specialized State staff for adequate review of complex documentation (*e.g.,* financial staff).

Off-site review activity is especially important for the Resource Management area of review which, as proposed at 7 CFR 210.18(h)(1), would require an off-site evaluation of information to determine if a comprehensive review is necessary. For other areas of review, the off-site review is strongly recommended but it is not required. Examples of possible off-site review activities include:

- Identifying the sites for review using the site selection procedures in the proposed 7 CFR 210.18(e).
- Reviewing documentation such as the SFA agreement, policy statement, renewal application, prior review findings and corrective action plans.
- Obtaining and reviewing the benefit issuance document.
- Selecting student certifications for review.
- Examining the SFA's verification procedures.
- Reviewing the SFA's counting and claiming procedures and documentation.
- Reviewing menus, production records, and related documents.
- Reviewing the Offer versus Serve policy.
- Identifying the school most at risk for nutrition related violations and conducting a targeted menu review in that school.
- Determining the targeted menu review approach.

In addition to the proposed off-site review activity, the on-site review activities will focus on validating the information obtained during the SFA off-site review and those aspects of program operations that can best be reviewed on-site. These types of on-site review activities are discussed in more

detail under the heading ''Areas of Review.''

Accordingly, the proposed rule adds off-site activity as a component of the administrative review in proposed 7 CFR 210.18(a) and 7 CFR 210.18(b)(1), and requires an off-site review component for the Resource Management area at proposed 7 CFR 210.18(h)(1).

Entrance and Exit Conferences

While some of the review activities can be conducted off-site, an observation of program operations while on-site at the SFA remains a critical component of program oversight. Prior to commencing on-site review activities, States are encouraged to convene an entrance conference with key SFA and, as applicable, LEA staff and administrators with responsibility for ensuring program requirements are followed. This initial conversation can help clarify expectations for the on-site review, raise preliminary issues identified during off-site review activities, and identify the additional information needed to complete the on-site portion of the review. While not required, this proposed rule supports, at 7 CFR 210.18(i)(1), the option for State agencies to begin the administrative review by conducting an entrance conference with the relevant SFA staff. This provision reflects existing practice. This rule would also retain the existing requirement for the State agency to conduct an exit conference. The proposed rule would codify the exit conference requirement at 7 CFR 210.18(i)(2).

Administrative Review Materials

This rulemaking would require, in proposed 7 CFR 210.18(f)(1), that State agencies use updated forms and tools to conduct the administrative review process. As stated earlier, FNS will issue the updated tools to coincide with the publication of the implementing rule. The new tools include: An Off-site Assessment Tool, an On-site Assessment Tool, a Meal Compliance Risk Assessment Tool, a Dietary Specifications Assessment Tool, and a Resource Management Risk Indicator Tool.

These tools and corresponding instructions are currently available to State agencies on the FNS PartnerWeb, which is a restricted access online portal for State agencies that administer the school meal programs. State agencies can find the tools in the Administrative Review Folder located in the Resources and Guidance document library of the CND Policy and Memoranda Community. When finalized, these tools will also available on the FNS Web site. With the exception of the Resource Management Risk Indicator Tool, which must be completed off-site, the required administrative review tools may be completed on-site.

Areas of Review

The proposed administrative review would continue to include critical and general areas which mirror the critical and general areas specified in existing 7 CFR 210.18(g) and (h), with the modifications discussed below.

Critical Areas of Review

Existing 7 CFR 210.18(b) defines, and existing 7 CFR 210.18(g) describes in detail, the critical areas, which are two performance standards that help evaluate compliance with program requirements. Performance Standard 1 (PS–1) focuses on certification for free and reduced price meals, benefit issuance, and meal counting and claiming. Performance Standard 2 (PS–2) focuses on meals meeting the meal pattern and dietary specification requirements. The proposed rule at 7 CFR 210.18(g)(1) and (2) would retain both performance standards but modify how they are monitored as described in the next two subsections of this preamble.

PS–1—Meal Access and Reimbursement

The proposed rule at 7 CFR 210.18(g) retains the existing PS–1, with only minor technical changes. Existing PS–1 refers to ''All, free, reduced price and paid *lunches* . . . served only to children eligible for free, reduced price and paid *lunches* . . .'' The proposed rule would replace the term ''lunches'' with the term ''meals'' to include an assessment of both the NSLP and the SBP as required by the amendments made to the NSLA in 207 of the HHFKA.

Existing 7 CFR 210.18(g)(1) has a three-pronged scope of review. The State agency must:

- Determine the number of children eligible for free, reduced price and paid meals, by type, in the reviewed schools (hereafter termed ''Certification'').
- Evaluate the system for issuing benefits and updating eligible status by validating the mechanisms the reviewed school uses to provide benefits to eligible children (hereafter termed ''Benefit Issuance'').
- Determine whether the meal counting system yields correct claims (hereafter termed ''Meal Counting and Claiming'').

The proposed rule would retain the above processes, but streamline and consolidate the Certification and Benefit Issuance review processes to improve program integrity and simplify the review process.

Under proposed 7 CFR 210.18(g)(1)(i), the State agency would be required to:

- Obtain the free and reduced price benefit issuance document for each school under the jurisdiction of the SFA for the day of review or a day in the review period.
- Review all, or a statistically valid sample of, free and reduced price certification documentation (*i.e.,* direct certifications, household applications) and other documentation relating to eligibility status (*e.g.,* verification, transfers).
- Validate that reviewed students' free and reduced price eligibility status was correctly determined and properly transferred to the benefit issuance document.

In addition, the proposed rule expands the scope of Certification and Benefit Issuance review from the reviewed sites to the SFA level in order to provide the State agency with a more accurate picture of the SFA's practices at all schools. The proposed rule requires the State agency to review the free and reduced price certification and benefit issuance documentation for students across the entire SFA. This proposed change reflects that most SFAs have a centralized recordkeeping system; generally certifications are made and benefit issuance is maintained at the SFA level. The advantage of this approach is that it allows certification and benefit issuance errors identified during a review to be corrected at the SFA level.

As permitted under existing 7 CFR 210.18(g)(1)(i)(A)(*2*), State agencies would continue to have the option of reviewing either all certifications on the benefit issuance documents or a statistically valid sample of certifications. State agencies using a statistically valid sample review fewer student documents and the review yields results representative of the certification and benefit issuance activity in the SFA. The statistically valid sample size may be determined manually, or by using the Statistical Sample Generator developed by FNS or other statistical sampling software. Both options are described in the FNS *Administrative Review Manual.* The proposed rule at 7 CFR 210.18(g)(1)(i) would retain the statistical sampling confidence level of 95 percent, set forth in existing 7 CFR 210.18(g)(1)(i)(A)(*2*), for electronic certification and benefit issuance systems. For manual benefit issuance systems, the proposed rule

would increase the sampling confidence level to 99 percent.

As under existing 7 CFR 210.18(g)(1)(i)(C), the Meal Counting and Claiming portion of the review would continue to ensure that all free, reduced price and paid meals are accurately counted, recorded, consolidated and reported through a system which consistently yields correct claims. Under proposed 7 CFR 210.18(g)(1)(ii), the State agency would continue to be required to monitor counting and claiming at both the SFA and reviewed school levels. The review strategies would remain unchanged. Under the proposed rule, the State agency would continue to determine whether:

- Daily lunch counts, by type, for the review period are more than the product of the number of children determined to be eligible, by type for the review period, adjusted for attendance at the reviewed schools;
- Each type of food service line provides accurate point of service lunch counts, by type, and those lunch counts are correctly counted and recorded at the reviewed schools; and
- All lunches at the reviewed schools are correctly counted, recorded, consolidated and reported for the day they are served.

In addition, State agencies would be required to determine whether lunch counts submitted by each school are correctly consolidated, recorded, and reported by the SFA on the Claim for Reimbursement.

Thus, the proposal combines the certification and benefit issuance process, and expands the scope of the certification and benefits issuance review to the SFA level, and establishes acceptable sample sizes and confidence levels for statistical sampling at proposed 7 CFR 210.18(g)(1)(i). The proposal retains existing meal counting and claiming review procedures at proposed 7 CFR 210.18(g)(1)(ii).

PS–2—Meal Pattern and Nutritional Quality

Under existing PS–2 found at 7 CFR 210.18(g)(2), the State agency monitors SFA compliance with the meal patterns and dietary specifications for lunches and breakfasts for each age/grade group. Currently, State agencies must review menu and production records for a minimum of five operating days to determine whether all food components and quantities have been offered. For the day of review, the State agency must also observe the serving line(s) to determine whether all food components and food quantities are offered, and observe a significant number of program meals counted at the point of service for each type of serving line to determine whether the meals selected by the students contain the required food components and quantities. In addition, the State agency must conduct a nutrient analysis of a school in the SFA to determine whether the meals offered meet the calorie, sodium and saturated fat requirements, and review nutrition labeling to assess compliance with the trans fat limit. The State agency must also assess whether performance-based cash assistance should continue to be provided for meals served.

The proposed rule at 7 CFR 210.18(g)(2) would largely retain the existing scope of review for PS–2 with the following modifications:

- Require the State agency to complete a USDA-approved *menu tool* for each school selected for review to establish the SFA's compliance with the required food components and quantities for each age/grade group being served. The menu tool can be completed off-site (preferably) or on-site using production records, menus, recipes, food receipts, and any other documentation that shows the meals offered during a week from the review period contained the required components/quantities.
- Require the State agencies to review menu and production records for a minimum of three to a maximum of seven operating days to determine whether all food components and quantities have been offered over the course of a typical school week.
- Require the State agency to confirm, through on-site observation of reviewed schools that *students select at least three food components at lunch and at least three food items at breakfast when Offer versus Serve is in place, and that these meals include at least ½ cup of fruits or vegetables.*
- Require the State agency to assess compliance with the dietary specifications (calories, sodium, saturated fat, and trans fat) using a risk-based approach and only require a weighted nutrient analysis for a school determined to be at high risk for violations (see discussion under the heading *Dietary Assessment*).

The State agency would continue to observe the meal service lines and review menu documentation on the day of review at review schools to determine whether all service lines offer all of the required food components and quantities. The State agency would also observe a significant number of program meals counted at the point of service for each type of serving line to determine whether the meals selected by the students contain the required food components and quantities.

Dietary Assessment

Existing 7 CFR 210.18(g)(2)(iv) requires a weighted nutrient analysis of the meals for students in age groups K and above to determine whether the meals offered meet the calorie, sodium, and saturated fat requirements set forth in 7 CFR 210.10 and 7 CFR 220.8. Under the proposed rule at 7 CFR 210.18(g)(2)(ii), the State agency would continue to assess whether the lunches and breakfasts offered to children are consistent with the calories, sodium, saturated fat, and trans fat restrictions. However, unlike the existing requirements, the proposed rule would require a risk-based approach to identify the reviewed school most at risk of nutrition-related violations and conduct a targeted menu review of that school.

Under the proposal, the State agency would complete the Meal Compliance Risk Assessment Tool off-site or on-site for each school selected for review to identify the school most at risk for nutrition-related violations. This risk-based approach is intended to lessen the review burden on State agencies and allow them to better use their resources. For the one school determined to be most at risk, the State agency would conduct an in-depth, targeted menu review using one of four FNS approved options. For the targeted menu review, the State agency would have the following options: conduct a nutrient analysis, validate an existing nutrient analysis performed by the SFA or a contractor, complete the Dietary Specifications Assessment Tool to further examine the food service practices, or follow an alternative FNS-approved process utilizing the Menu Planning Tools for Certification for Six Cent Reimbursement. This proposed rule revises the existing nutrient analysis provisions found in 7 CFR 210.10(h) and 7 CFR 210.10(i) to reflect this new streamlined and risk-based approach.

Performance-Based Cash Assistance

As required in existing 7 CFR 210.18(g)(2)(v), the proposed rule at 7 CFR 210.18(g)(2)(iii) continues to require the State agency to assess whether performance-based cash assistance should continue to be provided for the meals served.

Follow-up Reviews

Under existing 7 CFR 210.18(i), critical area violations in excess of specified thresholds trigger a follow-up review by the State agency. This proposed rule lessens the burden

associated with the administrative review by removing the existing requirement for follow-up reviews triggered by a specific threshold. The follow-up review requirement was implemented at a time when the review cycle was 5-years and there was concern about the long span between reviews. Because the 3-year review cycle now allows the State agency to have more frequent contact with the SFAs, the follow up requirement is unnecessary. Instead, the proposed review process emphasizes collaborative compliance. When errors are detected, the State agency would require corrective action, provide technical assistance to bring the SFA into compliance, and take fiscal action when appropriate. The State agency would have discretion to do a follow-up review based on criteria established by the State agency.

Accordingly, this proposed rule removes the definitions of ''follow-up reviews'' and ''review threshold'' in existing 7 CFR 210.18(b) and removes the follow-up review procedures in 7 CFR 210.18(i). Minor references to follow-up review and review threshold throughout 7 CFR part 210 are also removed. The definitions of ''large school food authority'' and ''small school food authority'' would be removed from 7 CFR 210.18(b), as these definitions were used in the determination of which SFAs received a follow-up review. The same definition of ''large school food authority'' would be added to 7 CFR part 235, State Administrative Expense Funds, where it remains relevant for the State Administrative Expense allocation process.

General Areas of Review

Under existing 7 CFR 210.18(h), State agencies are required to assess compliance with five general areas during the administrative review, *i.e.,* free and reduced price process, civil rights, monitoring responsibilities, reporting and recordkeeping and food safety. Under the proposal at 7 CFR 210.18(h), the proposed rule expands the general areas of review to include existing and new requirements grouped into two broad categories: Resource Management and General Program Compliance.

Resource Management, found at proposed 7 CFR 210.18(h)(1), would focus on compliance with existing requirements that safeguard the overall financial health of the nonprofit school food service:

- Maintenance of the Nonprofit School Food Service Account—7 CFR 210.14(a), (b) and (c);
- Paid Lunch Equity—7 CFR 210.14(e);
- Revenue from Nonprogram Foods—7 CFR 210.14(f); and
- Indirect Costs—2 CFR part 225, and 7 CFR 210.14(g) (as proposed).

Currently, SFAs are required to comply with these resource management requirements specified under existing 7 CFR 210.14; however, existing regulations do not require the State agencies to monitor compliance as part of the administrative review. Under this proposed rule at 7 CFR 210.18(h)(1), the State agency would monitor these five requirements using the *Resource Management Risk Indicator Tool* to identify SFAs at high risk for resource management problems, and would only conduct a comprehensive resource management review if, according to the tool, an SFA meets three or more of the following criteria:

- Size of the SFA (40,000 students or more),
- Financial findings on reviews or audits within the last three years,
- Inadequate practices related to maintenance of the nonprofit school food service account,
- Inadequate practices related to paid lunch equity,
- Inadequate practices related to revenue from nonprogram foods, and/or
- Inadequate practices related to indirect costs.

Adding Resource Management to the proposed administrative review would establish a framework for this review area, promote review consistency among all States, and promote proper stewardship of Federal funds. The required off-site review of Resource Management allows the reviewer to use the expertise of off-site State staff with specialized knowledge of resource management that may not typically be present during an on-site review. Under the proposal, State agencies continue to have flexibility to review Resource Management more frequently or more closely, provided the minimum areas of review are covered.

The Resource Management review area does not include procurement. Given the complexity of the procurement process, FNS will develop a separate review process for the State agencies to monitor compliance with procurement requirements. Excluding procurement from the proposed administrative review under 7 CFR 210.18 does not change the SFA's current responsibility to meet procurement standards applicable to those operating school meals programs. Pursuant to federal law and regulations at 2 CFR 200.318 through 2 CFR 200.326, SFAs continue to be required to fully comply with all attendant procurement standards and will be held accountable to those standards through regular State agency oversight.

It is also important to note that this proposed rule adds a new paragraph (g) to the Resource Management requirements in 7 CFR 210.14 to clarify the SFA's existing responsibilities with regard to indirect costs. This is discussed later in the preamble under the heading, ''IV. Proposed Changes to SFA Requirements.''

Proposed 7 CFR 210.18(h)(2), *General Program Compliance* would focus on the SFA compliance with the existing general areas found at 7 CFR 210.18(h)(1) through (h)(5): *Free and reduced price process, civil rights, SFA on-site monitoring, reporting and recordkeeping,* and *food safety.* In addition, the proposal expands the scope of review to include the requirements established by HHFKA for *competitive food standards, water, and outreach for the SBP and Summer Food Service Program (SFSP).* The proposed rule moves the existing oversight of outreach for SBP and SFSP from 7 CFR 210.19(g) to the new 210.18(h)(2)(viii) to reflect that this oversight activity is part of the general areas of review.

In total, the proposed general areas of review include, but are not limited to, the following areas:

- Free and Reduced Price Process—including verification, notification, and other procedures—7 CFR part 245.
- Civil Rights—7 CFR 210.23(b).
- SFA On-site Monitoring—7 CFR 210.8(a)(1) and proposed 220.11(d).
- Reporting and Recordkeeping—7 CFR parts 210, 220 and 245.
- Food Safety—7 CFR 210.13.
- Competitive Food Services—7 CFR 210.11 and 7 CFR 220.12.
- Water—7 CFR 210.10(a)(1)(i) and 7 CFR 220.8(a)(1).
- Professional Standards—7 CFR 210.30.
- SBP and SFSP Outreach—7 CFR 210.12(d).
- Local School Wellness Policies.

LEAs have been required to have local school wellness policies in place since 2006. Assessing compliance with this requirement has been a general area of review under the CRE, and is included in the *Administrative Review Manual.* The Department has issued a separate rulemaking to solicit public comment on the proposed implementation of HHFKA section 204, Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010, 79 FR 10693 (2/26/14). A final rule is under development. Once a final rule is published, the administrative

review guidance will be updated to reflect the finalized requirements.

Finally, as noted later in the preamble, this proposed rule expands the existing requirement for SFAs to conduct on-site monitoring. This proposed change to 7 CFR 210.8 is discussed in more detail later under the heading ''IV. Proposed Changes to SFA Requirements.''

Other Federal Program Reviews

The review of *other Federal programs* is a new aspect of the proposed unified accountability system. It would ensure that State agencies monitor the NSLP's afterschool snack program and seamless summer option, the Special Milk Program, and the Fresh Fruit and Vegetable Program when these programs are administered by the SFA under review. Under the proposed rule at 7 CFR 210.18(g) and (h), the State agency would monitor the critical and/or general areas of review in the cited programs, as applicable.

In contrast, under existing 7 CFR 210.18(i)(4)(iv), a State agency is only required to monitor the certification, count and milk/meal service procedures for the Special Milk Program (7 CFR part 215) or the NSLP afterschool snack program (7 CFR part 210) during a follow-up review if the State agency has not evaluated these previously in the schools selected for an administrative review. However, including these programs in the regular, periodic review of SFA operations is critical to ensuring they are properly administered and is expected to improve program integrity overall.

Other Federal Program Reviews would help ensure that the SFA operates the other school meal programs in accordance with key regulatory requirements. The State agencies would be required to follow the proposed review approach (7 CFR 210.18), as applicable, to monitor the other school meal programs as prescribed in the FNS *Administrative Review Manual.* In most cases, under the proposed rule the review of other school meal programs would include the following:

NSLP afterschool snack program—The State agency would:

- Use the *Supplemental Afterschool Snack Program Administrative Review Form.*
- Review the school's eligibility for the afterschool snack program.
- Ensure the school complies with counting and claiming procedures.
- Confirm the school food authority conducts self-monitoring activities twice per year as required in 210.9(c)(7).
- Assess compliance with the snack meal pattern in 7 CFR 210.10(o).
- Monitor compliance with the reporting and recordkeeping, food safety and civil rights requirements in 7 CFR part 210.

NSLP seamless summer option—As proposed, the rule requires that the State agency, at a minimum:

- Use the *Supplemental Seamless Summer Option Administrative Review Form.*
- Verify the site eligibility for the seamless summer option.
- Ensure the school food authority monitors the site(s) at least once per year.
- Review meal counting and claiming procedures.
- Monitor compliance with the meal patterns for lunches and breakfasts in 7 CFR 210.10 and 7 CFR 220.8, respectively.
- Confirm the school food authority informs families of the availability of free meals.
- Monitor compliance with the reporting and recordkeeping, food safety and civil rights requirements in 7 CFR part 210.

Special Milk Program (in NSLP schools)—As proposed, the rule requires that the State agency, at a minimum:

- Use the *Supplemental Special Milk Program Administrative Review Form.*
- Review the milk pricing policy, counting and claiming, and milk service procedures.
- Observe the milk service at the reviewed site if there are issues with the meal counting and claiming procedures in the NSLP or SBP.
- Ensure accuracy in certification and benefit issuance, when observing milk service.
- Monitor compliance reporting and recordkeeping, food safety and civil rights requirements in 7 CFR part 215.

Fresh Fruit and Vegetable Program—As proposed, the rule requires that the State agency, at a minimum:

- Confirm availability of benefits to all enrolled children free of charge.
- Monitor allowable program costs, service time, outreach efforts, and types of fruits and vegetables offered.
- Monitor compliance with the reporting and recordkeeping, food safety and civil rights requirements in 7 CFR part 210.

The Department has issued separate rulemaking, Fresh Fruit and Vegetable Program, 77 FR 10981 (February 24, 2012) to solicit public comment on the proposed Fresh Fruit and Vegetable Program. Currently, the program is operated under guidance that follows general requirements for program operations under 7 CFR part 210. The implementing administrative review rule will incorporate any citation changes that may be necessary if the Fresh Fruit and Vegetable Program rule is finalized in the location proposed at 7 CFR part 211.

Fiscal Action

Existing regulations at 7 CFR 210.19(c) require the State agency to identify the SFA's correct entitlement and take fiscal action when any SFA claims or receives more Federal funds than earned. Under this proposed rule at 7 CFR 210.18(l), State agencies would continue to be required to take fiscal action for all PS–1 violations and for specific PS–2 violations, as discussed next. This proposed rule expands the scope of fiscal action for certification/benefit issuance PS–1 violations, revises the method to calculate fiscal action for applicable violations, and modifies the State agency's authority to limit fiscal action for specific critical area violations when corrective action is completed.

Details about the proposed revisions to fiscal action follow.

PS–1 Violations

Under existing 7 CFR 210.18(m)(1), State agencies are required to take fiscal action for all certification, benefit issuance, meal counting, and claiming violations of PS–1 and fiscal action is generally limited to the reviewed schools. If corrective action occurs, the State agency may limit fiscal action from the point corrective action occurs back through the beginning of the review period.

For the Certification and Benefit Issuance portion of the new administrative review, 7 CFR 210.18(g) of this proposed rule would require State agencies to review certifications/benefit issuance for all the schools under its jurisdiction, not just reviewed schools. This broader scope of review is expected to provide the State agency with a more accurate picture of the SFA's practices at all participating schools under the jurisdiction of the SFA and lead to improved program integrity.

Given the broader scope of review at the SFA level, rather than the reviewed school level, this rule proposes several changes to the fiscal action procedures. The proposed rule at 7 CFR 210.18(l)(l) would apply fiscal action for certification and benefit issuance errors to the entire SFA, including non-reviewed schools. Expanding fiscal action across the entire SFA differs from the existing CRE review, and from the interim administrative review approach used by a number of State agencies operating under a waiver from CRE beginning and using the updated

Administrative Review Guidance. Under CRE, fiscal action is generally limited to the reviewed schools because certification and benefit issuance monitoring is limited to the reviewed schools. Under the interim administrative review approach, State agencies monitor certification and benefit issuance for the entire SFA, but fiscal action is generally limited to the reviewed schools, consistent with the CRE regulatory requirements.

The proposed rule would revise fiscal action in the new administrative review process by basing fiscal action on a State-calculated certification and benefit issuance adjustment factor for free and for reduced price meals, respectively. The adjustment factor for free meals is the ratio of the State agency count of students certified as eligible for free meals divided by the SFA count of students certified as eligible for free meals. The resulting percentage represents the benefit issuance accuracy rate for free meals. A similar calculation is made to obtain the reduced price adjustment factor. Under the proposed rule, the total number of free and reduced price meals claimed is adjusted to reflect the State-calculated certification and benefit issuance adjustment factors. This proposed approach differs from the CRE approach, which based fiscal action on the number of incorrect certifications in reviewed schools and the corresponding number of serving days. The proposed approach streamlines the determination of fiscal action and ensures program integrity SFA-wide.

The proposed rule amends 7 CFR 210.19(c) to indicate fiscal action applies to ''meals'', (rather than just lunches) and the Special Milk Program at 7 CFR part 215.

PS–2 Violations—Missing Food Component and Production Records

Under existing 7 CFR 210.18(m)(2)(i), State agencies are required to take fiscal action for food component violations of PS–2. However, if corrective action occurs, the State agency may limit fiscal action from the point corrective action occurs back through the beginning of the review period. Given the existing scope of review for PS–2, fiscal action is generally limited to the reviewed schools.

Under the proposed rule at 7 CFR 210.18(l)(2)(i), State agencies continue to be required to take fiscal action for PS–2 missing food component violations. Although fiscal action would generally be applied to the reviewed school, if a centralized menu is in place, the State agency should evaluate the cause(s) of the violation to determine if it is appropriate to apply fiscal action SFA wide.

In addition, the proposed rule requires the State agency to assess fiscal action on meals claimed for reimbursement that are not supported by appropriate documentation. An SFA is required to document that it offers reimbursable meals and maintain documentation that demonstrates how meals offered to students meet meal pattern requirements. If production records are missing, or missing for a certain time period, the proposed rule would require the State agency to take fiscal action unless the SFA is able to demonstrate to the satisfaction of the State agency, that reimbursable meals were offered and served.

Duration of Fiscal Action for PS–1 Violations and PS–2 Violations Related to Missing Food Component and Production Records

Under existing 7 CFR 210.19(c)(ii), fiscal action must be extended to the beginning of the school year or to that point during the current school year when the infraction first occurred, except as specified under existing 7 CFR 210.18(m). Based on the severity and longevity of the problem, the State agency may extend fiscal action back to previous school years, as applicable. The proposed rule retains the general duration, but in 7 CFR 210.18(l)(3), provides some flexibility for State agencies to limit the duration of fiscal action when corrective action takes place for PS–1 and PS–2 violations related to food components/missing production records. The proposal is as follows:

As proposed in 7 CFR 210.18(l)(3)(i), for PS–1 certification and benefit issuance errors, fiscal action would be required for the review period and the month of the on-site review, at a minimum. For example, if the review period is January and the month of the on-site review is February, then at a minimum fiscal action would be applied to the months of January and February. In scenarios where a month falls in between, *i.e.,* January is the review period and March is when the on-site review occurs, then fiscal action is applied to all three months.

For all other PS–1 violations and PS–2 violations relating to missing food components and missing production record:

- If corrective action occurs during the on-site review month, the State agency must apply fiscal action from the point corrective action occurs back through the beginning of the on-site review month and for the review period. For example, if the review period is in January and the on-site review occurs in March and during the course of the review errors are identified and corrected on March 15th, then fiscal action would be applied from March 1st through March 14th and for the entire review period, *i.e.,* January. If corrective action occurs during the review period, the State agency applies fiscal action from the point corrective action occurs back through the beginning of the review period. For example, if the review period is January and the on-site review occurs in March and it is determined that the problem was corrected on January15th, then fiscal action would be applied from January 1st through January 14th.
- If corrective action occurs prior to the review period, no fiscal action is required under the proposal. In this scenario, any error identified and corrected prior to the review period, *i.e.,* before January, it is not subject to fiscal action.
- If corrective action occurs in a claim month(s) between the review period and the on-site review month, the State agency would apply fiscal action only to the review period. For example, if the review period is January and the on-site review occurs in March and the corrective action takes place in February, the state agency would be required to apply fiscal action only to the review period, *i.e.,* January.

Based on the severity and longevity of the problem, the State agency would be able to extend fiscal action back to the beginning of the year or back to previous school years.

For PS–2 Violations Related to Vegetable Subgroups. Milk Type, Food Quantities, Whole Grain-Rich Foods, and Dietary Specifications

Existing 7 CFR 210.18(m)(2)(ii) requires fiscal action for repeated PS–2 violations related to vegetable subgroups and milk type. For repeated PS–2 violations related to food quantities, whole grain-rich foods and the dietary specifications, existing 7 CFR 210.18(m)(2)(iii) states that fiscal action is discretionary. The proposed rule would clarify the scope and duration of fiscal action for these repeated PS–2 violations. These changes are found at 7 CFR 210.18(l)(2)(ii) through (v) of the proposed rule.

For purposes of administrative reviews, repeated violations are generally those identified during the administrative review of an SFA in one cycle and identified again in the administrative review of the same SFA in the next review cycle. For example, if the State agency finds a PS–2 violation (*e.g.,* unallowable milk type)

in an SFA in the first review cycle (SY 2013–2016), and finds the same problem during the second review cycle (SY 2016–2019), fiscal action would be required during the second review cycle.

It is important to note that while fiscal action is generally limited to the repeated violation found in a subsequent administrative review cycle, State agencies are required by existing 7 CFR 210.19(c) to take fiscal action for recurrent violations found in later visits to the SFA during the initial cycle (*e.g.,* technical assistance visits, follow-up reviews) if these violations reflect willful and/or egregious disregard of program requirements. This would not occur during SY 2013–2014 through SY 2015–2016, as FNS has indicated in guidance, including the memorandum, *Administrative Reviews and Certification for Performance-Based Reimbursement in School Year (SY) 2014–2015 (SP–54 2014),* and subsequent Question and Answer documents, that repeat findings will not result in fiscal action if they are repeated in the first 3-year review cycle. Beginning in SY 2016–2017, State agencies would be directed to contact FNS for guidance in these situations.

For repeated violations involving vegetable subgroups and/or milk requirements, existing regulations require the State agency to take fiscal action provided that technical assistance has been provided by the State agency, corrective action has been previously required and monitored by the State agency, and the SFA remains in non-compliance with PS–2. The proposed rule at 7 CFR 210.18(l)(2)(ii) would clarify the existing regulatory requirement to specify how a State must apply fiscal action. Under the proposal, any meals with an unallowable milk type or when there is no milk variety, would be required to be disallowed/reclaimed. If one vegetable subgroup is not offered over the course of the week reviewed, the State agency should evaluate the cause(s) of the error to determine the appropriate fiscal action required. When calculating the required fiscal action, the State agency would have discretion, as appropriate based on the cause and extent of the error, to disallow/reclaim all meals served in the deficient week.

For repeated violations of quantities and/or the whole grain-rich foods and dietary specifications, existing regulations allow State agency the discretion to apply fiscal action provided that technical assistance has been given by the State agency, corrective action has been previously required and monitored by the State agency, and the SFA remains in noncompliance with quantity, whole grain rich and dietary specifications. The proposal rule at 7 CFR 210.18(l)(2)(iii) clarifies the existing regulatory requirement and specifies how fiscal action must be applied.

For repeated violations involving food quantities and/or the whole grain-rich foods requirement, the State agency would continue to have discretion to apply fiscal action. When evaluating the cause(s) of the error to determine the extent of the discretionary fiscal action, the reviewer would consider the following:

- If meals contain insufficient quantities of required food components, the affected meals may be disallowed/reclaimed.
- If whole grain-rich foods are not offered over the course of the week reviewed, all meals served in the deficient week may be disallowed/reclaimed.
- If insufficient whole grain-rich foods are offered, meals for one day during the week under review may be disallowed/reclaimed. The State agency has discretion to select which day's meals may be disallowed/reclaimed. Additional meals may be disallowed/reclaimed at State agency's discretion.
- If a vegetable subgroup is offered in insufficient quantity to meet the minimum weekly requirement, meals may be disallowed/reclaimed for one day that week. The State agency has discretion to select which day's meals are disallowed/reclaimed. Additional meals may be disallowed/reclaimed at the State agency's discretion.
- If the amount of fruit juice offered exceeds 50 percent of the total amount of fruits offered, or the amount of vegetable juice exceeds 50 percent of the total amount of vegetables offered, meals for the entire week may be disallowed/reclaimed.

For repeated violations of dietary specifications, the proposed rule in 7 CFR 210.18(l)(2)(iv) specifies that the State agency has discretion to take fiscal action and disallow/reclaim all meals for the entire week, if applicable, provided that technical assistance has been given by the State agency, corrective action has been previously required and monitored by the State agency, and the SFA remains noncompliant with the dietary specifications. If fiscal action is applied, it would be limited to the school selected for the targeted menu review. A nutrient analysis using USDA-approved software would be required to justify any fiscal action for noncompliance with the dietary specifications requirements.

The intent of these proposed fiscal action modifications and clarifications is to promote program integrity. Clearly identifying the critical area violations that may result in fiscal action and the scope and duration of any fiscal action, will promote consistency in fiscal action procedures among State agencies.

The administrative review manual also includes automated forms and tools designed to simplify the fiscal action process for State agencies. Fiscal action, whether required or at the States discretion, would be applied in a consistent manner and would take significantly less time to complete.

FNS is especially interested in soliciting feedback from early adopters of the new administrative review process on the impact of the proposed fiscal action method. We acknowledge that expanding the scope of review to include the SBP and strengthening fiscal action for PS–1 and PS–2 violations may result in increased fiscal action against certain SFAs.

Transparency Requirement

Section 207 of the HHFKA amended section 22 of the NSLA (42 U.S.C. 1769c) to require State agencies to report the final results of the administrative review to the public in the State in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary.

This proposed rule at 7 CFR 210.18(m) requires the State agency to post a summary of the most recent final administrative review results for each SFA on the State agency's publicly available Web site. The review summary must cover eligibility and certification review results, an SFA's compliance with the meal patterns and the nutritional quality of school meals, the results of the review of the school nutrition environment (including food safety, local school wellness policy, and competitive foods), and compliance related to civil rights, and general program participation, in a format prescribed by FNS. At a minimum, this would include the written notification of review findings provided to the SFAs Superintendent as required at 7 CFR 210.18.(i)(3). FNS will provide additional guidance on the appropriate format, including templates and model summaries, after the implementing rule is published.

State agencies would be required to post this review summary no later than 30 days after the State agency provides the final results of the administrative review to the SFA. The State agency would also be required to make a copy of the final administrative review report

available to the public upon request. This requirement seeks to promote transparency and accountability in program operations as parents and stakeholders are increasingly aware of the potential benefits of the programs and seek more information about them.

Reporting and Recordkeeping

Current regulations in 7 CFR 210.18(n) and (o) address the State agency reporting requirements associated with the administrative review process. This proposed rule would retain the requirement to file the form FNS–640 at proposed 7 CFR 210.18(n), but would remove reference to follow-up reviews. The proposal retains the basic record keeping requirement at 210.18(o), but removes the reporting requirement associated with follow-up reviews found in existing 7 CFR 210.18(o) and 7 CFR 210.20(a)(5) due to the proposed elimination of the follow-up reviews. The recordkeeping associated with follow-up reviews in 7 CFR 210.18(p) and 7 CFR 210.20(b)(7) would also be eliminated.

The proposed removal of the follow-up review is expected to reduce the reporting and recordkeeping burden on State agencies. As discussed earlier, the information collection associated with the updated forms and new tools required for the administrative review process will be addressed separately in a 60-day notice, when the implementing rule is published.

IV. Proposed Changes to SFA Requirements

As stated earlier, this proposed rule would add a new paragraph (g) in 7 CFR 210.14, *Resource Management,* to clarify SFA responsibilities regarding indirect costs that will be monitored by the State agency during the administrative review. The additional regulatory language would not represent a new requirement for SFAs. The proposed paragraph (g) would reflect existing requirements in 2 CFR part 225 that are applicable to the operators of the school meal programs. The intent of the proposed paragraph (g) is to highlight an SFA responsibility that often goes unnoticed because it is not clearly stated in 7 CFR 210.14.

To improve overall monitoring of the school meal programs, this proposed rule would also expand the SFA on-site monitoring process. Under existing 7 CFR 210.8(a)(1), SFAs with more than one school are required to perform no less than one on-site review of the lunch counting and claiming system employed by each school under its jurisdiction. The SFA must conduct the required on-site review prior to February 1 of each school year. The proposed rule at 7 CFR 210.8(a)(1) would expand the scope of on-site monitoring to include the readily observable general areas of review cited under 7 CFR 210.18(h), as identified by FNS. Readily observable areas of review could include, but are not limited to, the availability of free potable water, proper food safety practices, and compliance with Civil Rights requirements.

In addition, the SFA monitoring activities would extend to the SBP. The SFA would be required to annually monitor the operation of the NSLP and SBP at each school under its jurisdiction. As is currently done with the NSLP, this monitoring of the SBP would include the counting and claiming system used by a school and the general areas of review that are readily observable. This expansion of the SFA monitoring activities is intended to ensure that SFAs self-monitor and are aware of operational issues, and that schools receive ongoing guidance and technical assistance to facilitate compliance with program requirements.

V. Comparison of Existing and Proposed Administrative Review Requirements

The following chart summarizes the key existing and proposed administrative review requirements and states the anticipated outcomes.

Existing requirement	Proposed rule	Effect of proposal
Review location—State agencies are required to conduct an on-site review of each SFA once every 3-years.	Review location—The proposal would allow portions of the review to be conducted off-site and on-site. No change to the 3-year cycle.	The proposal is expected to provide State agencies with review flexibility, lower travel costs, and increase their ability to use in-house/off-site staff expertise to review complex documentation.
Scope of review—The scope of review covers both critical and general areas for the NSLP and SBP. The critical areas, PS–1 and PS–2, assess whether meals claimed for reimbursement are served to children eligible for free, reduced price, and paid meals; are counted, recorded and consolidated, and reported through a system that consistently yields correct claims; and meet meal pattern requirements.	Scope of review—The proposal retains the focus on critical and general areas of review, but would expand the general areas of review for a more robust monitoring process. New general areas would include: Resource Management, Competitive Food Services, Water and SBP and SFSP Outreach. In addition, the proposal would add Other Federal Program reviews and would introduce risk assessment protocols to target at risk schools/districts.	The proposal would establish the unified review system envisioned by the HHFKA. While the proposal would expand the scope of review by adding new general areas and Other Federal Program reviews, it would also provide efficiencies resulting from off-site monitoring, risk assessment protocols, and automated forms. Overall, the proposal is expected to reduce the review burden on State agencies and increase program integrity.
The general areas assess whether the SFA met other program requirements related to free and reduced price process, civil rights, SFA monitoring, food safety, and reporting and recordkeeping.		
Eligibility certification—State agencies review the free and reduced price certifications for children in schools selected for review.	Eligibility certification—The proposal would require State agencies to review the free and reduced price certifications made by the local educational agency in all schools in the district or a statistically valid sample of those certifications.	The proposal is expected to improve program integrity across the SFA. No change in burden is expected since the State agency has the option to review a statistically valid sample of applications.

Existing requirement	Proposed rule	Effect of proposal
Fiscal action—Fiscal action for certification and benefit issuance violations is calculated based on errors in the reviewed schools.	Fiscal action—Fiscal action for certification and benefit issuance violations would apply to the entire SFA, including non-reviewed schools and would be determined in a manner prescribed by FNS. The proposal would also prescribe the extent of fiscal action for repeated PS–2 violations. If corrective action takes place, the duration of fiscal action for PS–1 and specific PS–2 violations could also be revised.	The proposal is expected to promote consistency and accuracy in fiscal action procedures used by State agencies nationwide.
Meal pattern and dietary specifications—State agencies must review the meal service for the day of review and menu and production records for a minimum period of 5 days. State agencies must conduct a weighted nutrient analysis for each reviewed school.	Meal pattern and dietary specifications—The State agencies would continue to review the meal service for the day of review, and menus and production records for 3–7 days. If the review reveals problems with components or quantities, the State agency would expand the review to, at a minimum, the entire review period. This proposed rule would require the State agencies to conduct a meal compliance risk assessment for all schools under review to identify the school at highest risk for nutrition-related violations, and to conduct a targeted menu review for that single school. If the targeted menu review confirms the school is at high risk for dietary specification violations, a weighted nutrient analysis for that school would be required.	Requiring a weighted nutrient analysis only for a school determined to be at highest risk for dietary specification violations makes the best use of limited State agency resources. This change is expected to improve program integrity by focusing time and effort on at risk schools.
Follow-up reviews—State agencies are required to determine whether an SFA has violations in excess of specified thresholds and, if so, conduct follow-up reviews within specified timeframes.	Follow-up reviews—The proposal would eliminate the required follow-up reviews and corresponding review thresholds. Follow-up reviews would be at the State agency's discretion.	The proposed rule recognizes that State agencies will be conducting reviews on a more frequent basis. It provides States with the flexibility to conduct follow-up review activity at their discretion.
Reporting and recordkeeping—State agencies are required to notify FNS of the names of large SFAs in need of a follow-up review. State agencies are required to maintain records regarding its criteria for selecting schools for follow-up reviews.	Reporting and recordkeeping—The proposal would eliminate the follow-up review reporting and recordkeeping requirements.	The proposal would reduce reporting burden for State agencies.
Posting of final review results—No existing requirements.	Posting of final review results—The proposal would require State agencies to make the final results of each SFA administrative review available to the public in an accessible, easily understood manner in accordance with guidelines established by the Secretary; such results must also be posted and otherwise made available to the public on request.	Posting this information online is expected to enhance awareness of school and SFA performance at meeting the requirements of the school meal programs and increase informed involvement of parents in the program. The increased reporting burden associated with the posting is expected to be minor.
Include other Federal school nutrition programs in a follow up review—If the State agency did not evaluate the certification, count and milk/meal service procedures for the SMP or afterschool care programs in the schools selected for an administrative review, it must do so during the follow-up review.	Include other Federal school nutrition programs in the administrative review—The proposal would require State agencies to review the NSLP afterschool snacks, the NSLP seamless summer option, the SMP, and the FFVP as part of the administrative review under 7 CFR 210.18.	The proposal would foster integrity of all school meal programs, and promote efficiency.

Comparison of Existing and Proposed SFA Requirements

The following chart summarizes SFA requirements associated with the administrative review process.

Existing requirement	Proposed rule	Effect of proposal
Resource Management—7 CFR 210.8 does not address indirect costs explicitly.	Resource Management—This proposal would add text in 7 CFR 210.14 to clarify the SFA's existing responsibilities with regard to indirect costs.	The proposal would increase understanding of indirect cost responsibilities that are monitored by the State agency under the proposed administrative review.

Existing requirement	Proposed rule	Effect of proposal
SFA monitoring—SFAs are required to monitor the lunch counting and claiming processes schools annually.	SFA monitoring—The proposal would require the SFA to also monitor the SBP and to expand the annual school review by including selected general areas of review that are readily observable.	The proposal would result in a more robust and effective SFA monitoring process, which would contribute to the integrity of the school meal programs.

VI. Miscellaneous Changes

As previously mentioned, this rule proposes a number of miscellaneous changes to conform with other changes in the programs. Accordingly, the proposal would:

- Delete obsolete provision at 7 CFR 210.7(d)(1)(vi) related to validation reviews of performance-based reimbursement;
- Revise 7 CFR 210.9(b)(18) through 210.9(b)(20) and 210.15(b)(4) to reflect the diversity of certification mechanisms beyond household applications;
- Revise 7 CFR 210.19(a)(1) to reflect the Paid Lunch Equity requirements;
- Revise 7 CFR 210.19(a)(5) to update the review frequency to 3 years conforming with the requirement at 210.18(c); and
- Delete obsolete provisions at 7 CFR 210.20(b)(7) and 210.23(d).

VII. Procedural Matters

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866 and has been determined to be Not Significant.

B. Regulatory Impact Analysis

This proposed rule has been designated by the Office of Management and Budget (OMB) to be Not Significant; therefore a Regulatory Impact Analysis is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review it has been certified that this proposed rule would not have a significant impact on a substantial number of small entities. This proposed rule would update the administrative review process that State agencies must follow to monitor compliance with school meal programs' requirements. The proposed administrative review process provides State agencies more flexibility, tools and streamlined procedures. FNS does not expect that the proposed rule will have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that would result in expenditures for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 12372

The nutrition assistance programs and areas affected by this proposed rule are listed in the Catalog of Federal Domestic Assistance as follows:

- National School Lunch Program, No. 10.555
- School Breakfast Program, No. 10.553
- Special Milk Program, No. 10.556
- State Administrative Expenses for Child Nutrition, No. 10.560
- Fresh Fruit and Vegetable Program, No. 10.582

For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related notice (48 FR 29115, June 24, 1983), the nutrition assistance programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The Child Nutrition Programs are federally funded programs administered at the State level. FNS headquarters and regional office staff engage in ongoing formal and informal discussions with State and local officials regarding program operational issues. The structure of the Child Nutrition Programs allows State and local agencies to provide feedback that contributes to the development of meaningful and feasible program requirements. This proposed rule has taken into account the extensive experience of State agencies conducting the administrative reviews which would be updated by this rule.

F. Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121.

1. Prior Consultation With State Officials

FNS headquarters and regional offices have formal and informal discussions with State agency officials on an ongoing basis regarding the Child Nutrition Programs and policy issues. In addition, prior to drafting this proposed rule, FNS assembled a 26-member team consisting of staff from FNS Headquarters and the seven Regional Offices, and State Agency staff from Kansas, Michigan, New York, North Carolina, Oregon, Pennsylvania and Texas. The School Meal Administrative Review Reinvention Team (SMARRT) worked together for a year to address

issues and develop an updated review process that is responsive to the needs, wants, and challenges of the State agencies.

2. Nature of Concerns and the Need To Issue This Rule.

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) amended section 22 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1769c, to require that:

a. The administrative review process be a unified accountability system; and

b. State agencies report the final results of reviews, and post them or otherwise make them available to the public.

This proposed rule would update the administrative review process established in 7 CFR 210.18 to carry out these two statutory requirements. In addition, the proposed rule would also make a number of changes to address issues and concerns raised by State agencies. Issues identified by State agencies include simplifying the administrative review and fiscal action. State agencies also want the administrative reviews to be meaningful and contribute to better meal service. They also want a review process that would allow them to better utilize the limited resources they have.

3. Extent to Which the Department Meets Those Concerns

FNS has considered the concerns identified by SMARRT. The administrative review process proposed in this rule would streamline review procedures to allow more time for technical assistance, emphasize risk-assessment to enable the State agency to focus the administrative review on school food authorities at high risk for noncompliance, and provide State agencies flexibility to conduct portions of the review off-site to make better use of limited resources.

G. Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, appeal procedures in 7 CFR 210.18(q) and 7 CFR 235.11(f) of this chapter must be exhausted.

H. Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes. In spring 2011, FNS offered five opportunities for consultation with Tribal officials or their designees to discuss the impact of the Healthy, Hunger-Free Kids Act of 2010 on tribes or Indian Tribal governments. FNS followed up with conference calls on February 13, 2013; May 22, 2013; August 21, 2013 and November 6, 2013. These consultation sessions provide the opportunity to address Tribal concerns related to the School Meals Programs. To date, Indian Tribal governments have not expressed concerns about the required unified accountability system during these consultations.

USDA is unaware of any current Tribal laws that could be in conflict with the proposed rule. The Department will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule.

I. Civil Rights Impact Analysis

FNS has reviewed this proposed rule in accordance with Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on children on the basis of age, race, color, national origin, sex, or disability. A careful review of the rule's intent and provisions revealed that this proposed rule is not intended to reduce a child's ability to participate in the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, or Special Milk Program.

J. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current, valid OMB control number. This is a revision of currently approved collection. The administrative reviews in School Nutrition Program provisions in this rule minimally increase burden hours for the National School Lunch Program (NSLP) information collection, OMB Control Number #0584–0006, expiration date 2/29/2016. These changes are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the information collection requirements have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval. Additionally, the forms and tools associated with the proposed administrative review process will be addressed separately in a 60-day notice.

Written comments on the information collection in this proposed rule must be received by July 10, 2015.

Send comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNS, Washington, DC 20503. Please also send a copy of your comments to Lynn Rodgers-Kuperman, Child Nutrition Monitoring and Operations Support Division, 3101 Park Center Drive, Alexandria, VA 22302. For further information, or for copies of the information collection requirements, please contact Lynn Rodgers-Kuperman at the address indicated above. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this request for comments will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Title: 7 CFR part 210, National School Lunch Program: Proposed Rule for Administrative Reviews in the School Nutrition Programs.

OMB Number: 0584–0006.

Expiration Date: 02/29/2016.

Type of Request: Revision of currently approved collection.

Abstract: This proposed rule would revise the NSLP administrative review requirements to establish a unified

accountability system designed to ensure that participating school food authorities (SFA) comply with the NSLP and School Breakfast Program requirements, as required by the Healthy, Hunger-Free Kids Act of 2010. In addition to the new administrative review process, this rule proposes to require State agencies to report and publicly post SFAs administrative review results. The proposed rule would eliminate the existing requirement for State agencies to report the names of those large SFAs subject to a follow-up reviews and hence reduces associated reporting burden. These proposed changes are expected to give State agencies more flexibility to conduct reviews, allow for the efficient use of limited time and staff, and result in a more robust and effective monitoring of the School Nutrition Programs.

This proposed rule slightly increased the number of burden hours for 0584–0006 collection. The current collection burden inventory for the NSLP is 10,223,035. This proposed rule will decrease reporting burden by 11.2 hours, increase public disclosure burden by 1,736 hours and increase recordkeeping burden by 14 hours for an overall increase of 1,739 hours as a result of program changes. The revised total burden inventory for the NSLP with this proposed rule is 10,224,774 hours. The average burden per response and the annual burden hours are explained below and summarized in the charts which follow.

Respondents for this Proposed Rule: State Education Agencies: 56.

Estimated Number of Responses per Respondent for this Proposed Rule: 124.

Estimated Total Annual Responses: 6944.

Average hours per Response: 0.25.

Estimated Total Annual Burden on Respondents for this Proposed Rule: 1739.

ESTIMATED ANNUAL BURDEN FOR (0584–0006) ADMINISTRATIVE REVIEWS IN THE SCHOOL NUTRITION PROGRAMS PROPOSED RULE

	Section	Estimated number of respondents	Frequency of response	Total annual responses	Average burden per response	Annual burden hours
Reporting						
* SAs will report to FNS about names of large SFAs exceeding any one of the CRE critical area review thresholds	210.18(i), 210.18(d)(2), 210.18(o)(1)	56	1	56	0.20	(11.20)
Public Disclosure						
Establish a state agency requirement to post a summary of the most recent administrative review results of each SFA	210.18(m)(1)	56	124	6944	0.25	1736
Total Reporting for Proposed rule		56	125	7000	0.2464	1725
Total Existing Reporting Burden for 0584–0006, Part 210						1,003,770
Total Revised Reporting Burden for Part 210 with Administrative review proposed rule						1,005,495
Total Number Respondents		56				
Recordkeeping						
SAs must maintain a copy of the summary of the most recent administrative review results of each SFA	210.18(o)	56	1	56	0.25	14
Total Recordkeeping for Proposed rule		56	1	56	0.25	14

ESTIMATED ANNUAL BURDEN FOR (0584–0006) ADMINISTRATIVE REVIEWS IN THE SCHOOL NUTRITION PROGRAMS PROPOSED RULE—Continued

	Section	Estimated number of respondents	Frequency of response	Total annual responses	Average burden per response	Annual burden hours
Total Existing Recordkeeping Burden for 0584–0006, Part 210	.....	.....	.....	.....	.....	9,219,264
Total Revised Recordkeeping Burden for Part 210 with Administrative review proposed rule	.....	.....	.....	.....	.....	9,219,278
Average Number Responses per Respondent	.....	.....	.....	.....	.....	124
Total Annual Responses	.....	.....	.....	.....	.....	6,944
Average Hours per response	.....	.....	.....	.....	.....	0.25
Total Burden Hours for Part 210 with Proposed Rule	.....	.....	.....	.....	.....	10,224,774
Current OMB Inventory for Part 210 ..	.....	.....	.....	.....	.....	10,223,035
Difference (New Burden Requested With Proposed Rule)	.....	.....	.....	.....	.....	1,739

*This proposed rule would eliminate the required follow-up reviews and corresponding review thresholds. Therefore, the burden assessment (11.20 hours) associated with 7 CFR 210.18(i) will be removed from the NSLP, OMB Control Number #0584–0006, expiration date 2/29/2016.

K. E-Government Act Compliance

FNS is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

List of Subjects

7 CFR Part 210

Grant programs—education; Grant programs—health; Infants and children; Nutrition; Reporting and recordkeeping requirements; School breakfast and lunch programs; Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Grant programs—education; Grant programs—health; Infants and children; Nutrition; Reporting and recordkeeping requirements; School breakfast and lunch programs.

7 CFR Part 235

Administrative practice and procedure; Food assistance programs; Grant programs—education; Grant programs—health; Infants and children; Reporting and recordkeeping requirements; School breakfast and lunch programs.

Accordingly, 7 CFR parts 210, 215, 220 and 235 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for 7 CFR part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In part 210, remove the word ''SF–269'' wherever it appears and add, in its place, the word ''FNS–777''.

§ 210.7 [Amended]

■ 3. In § 210.7, remove paragraph (d)(1)(vii) and redesignate paragraph (d)(1)(viii) as paragraph (d)(1)(vii).

§ 210.8 [Amended]

■ 4. In § 210.8:

■ a. In the first sentence of paragraph (a)(1), remove the word ''lunch''.

■ b. In the first sentence of paragraph (a)(1), remove the words ''employed by'' and add in their place the words ''and the readily observable general areas of review cited under § 210.18(h), as prescribed by FNS for''.

■ c. In the third sentence of paragraph (a)(1), add the words ''or general review areas'' after the word ''procedures''.

■ d. In the fourth sentence, remove the word ''lunches'' and add in its place the word ''meals''; and

■ e. In paragraph (a)(3)(ii), remove the word ''subsequent''.

■ 5. In § 210.9:

■ a. In paragraph (b)(18), remove the words ''applications which must be readily retrievable by school'' and add in their place the words ''certification documentation'';

■ b. Revise the introductory text of paragraph (b)(19); and

■ c. Revise paragraph (b)(20).

The revisions read as follows:

§ 210.9 Agreement with State agency.

* * * * *

(b) * * *

(19) Maintain direct certification documentation obtained directly from the appropriate State or local agency, or

other appropriate individual, as specified by FNS, indicating that:

* * * * *

(20) Retain eligibility documentation submitted by families for a period of 3 years after the end of the fiscal year to which they pertain or as otherwise specified under paragraph (b)(17) of this section.

* * * * *

■ 6. In § 210.10:

■ a. In paragraph (h), revise the heading;

■ b. In paragraph (h)(1), revise the first sentence;

■ c. In paragraph (i), revise the heading and revise paragraph (i)(1);

■ d. Revise paragraph (i)(3)(i);

■ e. In paragraph (j), revise the paragraph heading; and

■ f. In paragraph (o), add paragraph (o)(5).

The revisions and additions read as follows:

§ 210.10 Meal requirements for lunches and requirements for afterschool snacks.

* * * * *

(h) *Monitoring dietary specifications.*

(1) * * * When required by the administrative review process set forth in § 210.18, the State agency must conduct a weighted nutrient analysis to evaluate the average levels of calories, saturated fat, and sodium of the lunches offered to students in grades K and above during one week of the review period. * * *

* * * * *

(i) *Nutrient analyses of school meals*—(1) *Conducting the nutrient analysis.* Any nutrient analysis, whether conducted by the State agency under § 210.18 or by the school food authority, must be performed in accordance with the procedures established in paragraph (i)(3) of this section. The purpose of the nutrient analysis is to determine the average levels of calories, saturated fat, and sodium in the meals offered to each age grade group over a school week. The weighted nutrient analysis must be performed as required by FNS guidance.

* * * * *

(3) * * *

(i) *Weighted averages.* The nutrient analysis must include all foods offered as part of the reimbursable meals during one week within the review period. Foods items are included based on the portion sizes and serving amounts. They are also weighted based on their proportionate contribution to the meals offered. This means that food items offered more frequently are weighted more heavily than those not offered as frequently. The weighted nutrient analysis must be performed as required by FNS guidance.

* * * * *

(j) *Responsibility for monitoring meal requirements.* * * *

* * * * *

(o) * * *

(5) *Monitoring afterschool snacks.* Compliance with the requirements of this paragraph is monitored by the State agency as part of the administrative review conducted under § 210.18. If the snacks offered do not meet the requirements of this paragraph, the State agency or school food authority must provide technical assistance and require corrective action. In addition, the State agency must take fiscal action, as authorized in §§ 210.18(l) and 210.19(c).

* * * * *

■ 7. In § 210.14:

■ a. Add a sentence at the end at the paragraph (d); and

■ b. Add paragraph (g).

The additions read as follows:

§ 210.14 Resource management.

* * * * *

(d) * * * The school food authority's policies, procedures, and records must account for the receipt, full value, proper storage and use of donated foods.

* * * * *

(g) *Indirect costs.* School food authorities must follow fair and consistent methodologies to identify and allocate allowable indirect costs to the school food service account, as required in 2 CFR part 225.

§ 210.15 [Amended]

■ 8. In § 210.15(b)(4), remove the words ''applications for'' and add in their place the words ''certification documentation for''.

■ 9. Revise § 210.18 to read as follows:

§ 210.18 Administrative reviews.

(a) *Programs covered and methodology.* Each State agency must follow the requirements of this section to conduct administrative reviews of school food authorities participating in the National School Lunch Program and the School Breakfast Program (part 220 of this chapter). These procedures must also be followed, as applicable, to conduct administrative reviews of the National School Lunch Program, afterschool snack program and seamless summer option, the Special Milk Program (part 215 of this chapter), and the Fresh Fruit and Vegetable Program. To conduct a program review, the State agency must gather and assess information off-site and/or on-site, observe the school food service operation, and use a risk-based approach to evaluate compliance with specific program requirements.

(b) *Definitions.* The following definitions are provided in alphabetical order in order to clarify State agency administrative review requirements:

Administrative reviews means the comprehensive off-site and/or on-site evaluation of all school food authorities participating in the programs specified in paragraph (a) of this section. The term ''administrative review'' is used to reflect a review of both critical and general areas in accordance with paragraphs (g) and (h) of this section, as applicable for each reviewed program, and includes other areas of program operations determined by the State agency to be important to program performance.

Critical areas means the following two performance standards described in detail in paragraph (g) of this section:

(1) *Performance Standard 1*—All free, reduced price and paid school meals claimed for reimbursement are served only to children eligible for free, reduced price and paid school meals, respectively; and are counted, recorded, consolidated and reported through a system which consistently yields correct claims.

(2) *Performance Standard 2*—Reimbursable lunches meet the meal requirements in § 210.10, as applicable to the age/grade group reviewed. Reimbursable breakfasts meet the meal requirements in § 220.8 of this chapter, as applicable to the age/grade group reviewed.

Day of review means the day(s) on which the on-site review of the individual sites selected for review occurs.

Documented corrective action means written notification required of the school food authority to certify that the corrective action required for each violation has been completed and to notify the State agency of the dates of completion. Documented corrective action may be provided at the time of the review or may be submitted to the State agency within specified timeframes.

General areas means the areas of review specified in paragraph (h) of this section. These areas include free and reduced price process, civil rights, school food authority on-site monitoring, reporting and recordkeeping, food safety, competitive food services, water, program outreach, resource management, and other areas identified by FNS.

Participation factor means the percentages of children approved by the school for free lunches, reduced price lunches, and paid lunches, respectively, who are participating in the Program. The free participation factor is derived by dividing the number of free lunches claimed for any given period by the

product of the number of children approved for free lunches for the same period times the operating days in that period. A similar computation is used to determine the reduced price and paid participation factors. The number of children approved for paid lunches is derived by subtracting the number of children approved for free and reduced price lunches for any given period from the total number of children enrolled in the reviewed school for the same period of time, if available. If such enrollment figures are not available, the most recent total number of children enrolled must be used. If school food authority participation factors are unavailable or unreliable, State-wide data must be employed.

Review period means the most recent month for which a Claim for Reimbursement was submitted, provided that it covers at least ten (10) operating days.

(c) *Timing of reviews.* State agencies must conduct administrative reviews of all school food authorities participating in the National School Lunch Program (including the afterschool snack program and the seamless summer option) and School Breakfast Program at least once during a 3-year review cycle, provided that each school food authority is reviewed at least once every 4 years. For each State agency, the first 3-year review cycle started the school year that began on July 1, 2013, and ended on June 30, 2014. The administrative review must be completed during the school year in which the review was begun.

(1) *Review cycle exceptions.* FNS may, on an individual school food authority basis, approve written requests for 1-year extensions to the 3-year review cycle specified in paragraph (c) of this section if FNS determines this 3-year cycle requirement conflicts with efficient State agency management of the programs.

(2) *Follow-up reviews.* The State agency may conduct follow-up reviews in school food authorities where significant and/or repeated critical or general violations exist. The State agency may conduct follow-up reviews in the same school year as the administrative review.

(d) *Scheduling school food authorities.* The State agency must use its own criteria to schedule school food authorities for administrative reviews; provided that the requirements of paragraph (c) of this section are met. State agencies may take into consideration the findings of the claims review process required under § 210.8(b)(2) in the selection of school food authorities.

(1) *Schedule of reviews.* To ensure no unintended overlap occurs, the State agency must inform FNS of the anticipated schedule of school food authority reviews upon request.

(2) *Exceptions.* In any school year in which FNS or the Office of the Inspector General (OIG) conducts a review or investigation of a school food authority in accordance with § 210.19(a)(5), the State agency must, unless otherwise authorized by FNS, delay conduct of a scheduled administrative review until the following school year. The State agency must document any exception authorized under this paragraph.

(e) *Number of schools to review.* At a minimum, the State agency must review the number of schools specified in paragraph (e)(1) of this section and must select the schools to be reviewed on the basis of the school selection criteria specified in paragraph (e)(2) of this section. The State agency may review all schools meeting the school selection criteria specified in paragraph (e)(2) of this section.

(1) *Minimum number of schools.* Except for residential child care institutions, the State agency must review all schools with a free average daily participation of 100 or more and a free participation factor of 100 percent or more. In no event must the State agency review less than the minimum number of schools illustrated in Table A for the National School Lunch Program.

TABLE A

Number of schools in the school food authority	Minimum number of schools to review
1 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	*12

*Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (≥0.5) or down (<0.5) to the nearest whole number.

(2) *School selection criteria.*

(i) Selection of additional schools to meet the minimum number of schools required under paragraph (e)(1) of this section, must be based on the following criteria:

(A) Elementary schools with a free average daily participation of 100 or more and a free participation factor of 97 percent or more;

(B) Secondary schools with a free average daily participation of 100 or more and a free participation factor of 77 percent or more; and

(C) Combination schools with a free average daily participation of 100 or more and a free participation factor of 87 percent or more. A combination school means a school with a mixture of elementary and secondary grades.

(ii) When the number of schools selected on the basis of the criteria established in paragraph (e)(2)(i) of this section is not sufficient to meet the minimum number of schools required under paragraph (e)(1) of this section, the additional schools selected for review must be identified using State agency criteria which may include low participation schools; recommendations from a food service director based on findings from the on-site visits or the claims review process required under § 210.8(a); or any school in which the daily lunch counts appear questionable (*e.g.,* identical or very similar claiming patterns, and/or large changes in free lunch counts).

(iii) In selecting schools for an administrative review of the School Breakfast Program, State agencies must follow the selection criteria set forth in this paragraph and FNS' *Administrative Review Manual.* At a minimum,:

(A) In school food authorities operating only the breakfast program, State agencies must review the number of schools set forth in Table A in paragraph (e)(1) of this section.

(B) In school food authorities operating both the lunch and breakfast programs, State agencies must review the breakfast program in 50 percent of the schools selected for an administrative review under paragraph (e)(1) of this section that operate the breakfast program.

(C) If none of the schools selected for an administrative review under paragraph (e)(1) of this section operates the breakfast program, but the school food authority operates the program elsewhere, the State agency must follow procedures in the FNS *Administrative Review Manual* to select at least one other site for a school breakfast review.

(3) *Site selection for other federal program reviews.*

(i) *National School Lunch Program's afterschool snack program.* If a school selected for an administrative review under this section operates the afterschool snack program, the State agency must review snack documentation for compliance with program requirements, according to the FNS *Administrative Review Manual.* Otherwise, the State agency is not required to review the afterschool snack program.

(ii) *National School Lunch Program's seamless summer option.* The State agency must review seamless summer option at a minimum of one site if the school food authority selected for review under this section operates the seamless summer option. This review can take place at any site within the reviewed school food authority the summer before or after the school year in which the administrative review is scheduled. The State agency must review the seamless summer option for compliance with program requirements, according to the FNS *Administrative Review Manual.*

(iii) *Fresh Fruit and Vegetable Program.* The State agency must review the Fresh Fruit and Vegetable Program at one or more of the schools selected for an administrative review, as specified in Table B. If none of the schools selected for the administrative review operates the Fresh Fruit and Vegetable Program but the school food authority operates the Program elsewhere, the State agency must follow procedures in the FNS *Administrative Review Manual* to select one or more sites for the program review.

TABLE B

Number of schools selected for an NSLP administrative review that operate the FFVP	Minimum number of FFVP schools to be reviewed
0 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	*12

*Twelve plus 5 percent of the number of schools over 100. Fractions must be rounded up (≥0.5) or down (<0.5) to the nearest whole number.

(iv) *Special Milk Program.* If a school selected for review under this section operates the Special Milk Program, the State agency must review the school's program documentation off-site or on-site, as prescribed in the FNS *Administrative Review Manual.* On-site review is only required if the State agency has identified documentation problems or if the State agency has identified meal counting and/or claiming errors in the reviews conducted under the National School Lunch Program or School Breakfast Program.

(4) *Pervasive problems.* If the State agency review finds pervasive problems in a school food authority, FNS may authorize the State agency to cease review activities prior to reviewing the required number of schools under paragraphs (e)(1) and (3) of this section. Where FNS authorizes the State agency to cease review activity, FNS may either conduct the review activity itself or refer the school food authority to OIG.

(5) *Noncompliance with meal pattern requirements.* If the State agency determines there is significant noncompliance with the meal pattern and nutrition requirements set forth in §§ 210.10 and 220.8 of this chapter, as applicable, the State agency must select the school food authority for administrative review earlier in the review cycle.

(f) *Scope of review.* During the course of an administrative review for the National School Lunch Program and the School Breakfast Program, the State agency must monitor compliance with the critical and general areas in paragraphs (g) and (h) of this section, respectively. State agencies may add additional review areas with FNS approval. Selected critical and/or general areas must be monitored when reviewing the National School Lunch Program's afterschool snack program and the seamless summer option, the Special Milk Program, and the Fresh Fruit and Vegetable Program, as applicable and as specified in the FNS *Administrative Review Manual.*

(1) *Review forms.* State agencies must use the administrative review forms, tools and workbooks prescribed by FNS.

(2) *Timeframes covered by the review.*

(i) The timeframes covered by the administrative review includes the review period and the day of review, as defined in paragraph (b) of this section.

(ii) Subject to FNS approval, the State agency may conduct a review early in the school year, prior to the submission of a Claim for Reimbursement. In such cases, the review period must be the prior month of operation in the current school year, provided that such month includes at least 10 operating days.

(3) *Audit findings.* To prevent duplication of effort, the State agency may use any recent and currently applicable findings from Federally-required audit activity or from any State-imposed audit requirements. Such findings may be used only insofar as they pertain to the reviewed school(s) or the overall operation of the school food authority and they are relevant to the review period. The State agency must document the source and the date of the audit.

(g) *Critical areas of review.* The performance standards listed in this paragraph are directly linked to meal access and reimbursement, and to the meal pattern and nutritional quality of the reimbursable meals offered. These critical areas must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these critical areas must also be monitored, as applicable, when conducting administrative reviews of the National School Lunch Program's afterschool snack program and the seamless summer option, and of the Special Milk Program.

(1) *Performance Standard 1 (All free, reduced price and paid school meals claimed for reimbursement are served only to children eligible for free, reduced price and paid school meals, respectively; and are counted, recorded, consolidated and reported through a system which consistently yields correct claims.)* The State agency must follow review procedures stated in this section and as specified in the FNS *Administrative Review Manual* to ensure that the school food authority's certification and benefit issuance processes for school meals offered under the National School Lunch Program, and School Breakfast Program are conducted as required in part 245 of this chapter, as applicable. In addition, the State agency must ensure that benefit counting, consolidation, recording and claiming are conducted as required in this part and part 220 of this chapter for the National School Lunch Program and the School Breakfast Program, respectively. The State agency must also follow procedures consistent with this section, and as specified in the FNS *Administrative Review Manual,* to review applicable areas of Performance Standard 1 in the National School Lunch Program's afterschool snack program and seamless summer option, and in the Special Milk Program.

(i) *Certification and benefit issuance.* The State agency must gather information and monitor the school food authority's compliance with program requirements regarding benefit application, direct certification, and categorical eligibility, as well as the transfer of benefits to the point-of-service benefit issuance document. To review this area, the State agency must obtain the benefit issuance document for each participating school under the jurisdiction of the school food authority for the day of review or a day in the review period, review all or a statistically valid sample of student certifications, and validate that the eligibility certification for free and reduced price meals was properly transferred to the benefit issuance document and reflects changes due to verification findings, transfers, or a

household's decision to decline benefits. If the State agency chooses to review a statistically valid sample of student certifications, the State agency must use a sample size with a 99 percent confidence level of accuracy. However, a sample size with a 95 percent confidence level of accuracy may be used if a school food authority uses an electronic benefit issuance and certification system with no manual data entry and the State agency has not identified any potential systemic noncompliance. Any sample size must be large enough so that there is a 99 or 95 percent, as applicable, chance that the actual accuracy rate for all certifications is not less than 2 percentage points less than the accuracy rate found in the sample (*i.e.,* the lower bound of the one-sided 99/95 percent confidence interval is no more than 2 percentage points less than the point estimate).

(ii) *Meal counting and claiming.* The State agency must gather information and conduct an on-site visit to ensure that the processes used by the school food authority and reviewed school(s) to count, record, consolidate, and report the number of reimbursable meals/snacks served to eligible students by category (*i.e.,* free, reduced price or paid meal) are in compliance with program requirements and yield correct claims. The State agency must determine whether:

(A) The daily lunch counts, by type, for the review period are more than the product of the number of children determined by the school/school food authority to be eligible for free, reduced price, and paid lunches for the review period times an attendance factor. If the lunch count, for any type, appears questionable or significantly exceeds the product of the number of eligibles, for that type, times an attendance factor, documentation showing good cause must be available for review by the State agency.

(B) For each school selected for review, each type of food service line provides accurate point of service lunch counts, by type, and those lunch counts are correctly counted and recorded. If an alternative counting system is employed (in accordance with § 210.7(c)(2)), the State agency shall ensure that it provides accurate counts of reimbursable lunches, by type, and is correctly implemented as approved by the State agency.

(C) For each school selected for review, all lunches are correctly counted, recorded, consolidated and reported for the day they are served.

(2) *Performance Standard 2 (Lunches claimed for reimbursement by the school food authority meet the meal requirements in § 210.10, as applicable to the age/grade group reviewed. Breakfasts claimed for reimbursement by the school food authority meet the meal requirements in § 220.8 of this chapter, as applicable to the age/grade group reviewed.*) The State agency must follow review procedures, as stated in this section and detailed in the FNS *Administrative Review Manual,* to ensure that lunches and breakfasts offered by the school food authority meet the food component and quantity requirements and the dietary specifications for each program, as applicable. Review of these critical areas may occur off-site and/or on-site. The State agency must also follow procedures consistent with this section, as specified in the FNS *Administrative Review Manual,* to review applicable areas of Performance Standard 2 in the National School Lunch Program's afterschool snack program and seamless summer option, and in the Special Milk Program.

(i) *Food components and quantities.* For each school selected for review, the State agency must complete a USDA-approved menu tool, review documentation, and observe the meal service to ensure that meals offered by the reviewed schools meet the meal patterns for each program. To review this area, the State agency must:

(A) Review menu and production records for the reviewed schools for a minimum of one school week (*i.e.,* a minimum number of three consecutive school days and a maximum of seven consecutive school days) from the review period. Documentation, including food crediting documentation, such as food labels, product formulation statements, CN labels and bid documentation, must be reviewed to ensure compliance with the lunch and breakfast meal patterns. If the documentation review reveals problems with food components or quantities, the State agency must expand the review to, at a minimum, the entire review period. The State agency should consider a school food authority compliant with the school meal pattern if:

(*1*) When evaluating the daily and weekly range requirements for grains and meat/meat alternates, the documentation shows compliance with the daily and weekly minimums for these components, regardless of whether the school food authority has exceeded the recommended weekly maximums for the same components.

(*2*) When evaluating the service of frozen fruit, the State agency determines that the school food authority serves frozen fruit with or without added sugar.

(B) On the day of review, the State agency must:

(*1*) Observe a significant number of program meals at each serving line and review the corresponding documentation to determine whether all reimbursable meal service lines *offer* all of the required food components and quantities for the age/grade groups being served, as required under § 210.10, as applicable, and § 220.8 of this chapter, as applicable. Observe meals at the beginning, middle and end of the meal service line, and confirm that signage or other methods are used to assist students in identifying the reimbursable meal. If the State agency identifies missing components or inadequate quantities prior to the beginning of the meal service, it must inform the school food authority and provide an opportunity to make corrections. Additionally, if visual observation suggests that quantities offered are insufficient or excessive, the State agency must require the reviewed schools to provide documentation demonstrating that the required amounts of each component were available for service for each day of the review period.

(*2*) Observe a significant number of the program meals counted at the point of service for each type of serving line to determine whether the meals *selected* by the students contain the food components and food quantities required for a reimbursable meal under § 210.10, as applicable, and § 220.8 of this chapter, as applicable.

(*3*) If Offer versus Serve is in place, observe whether students select at least three food components at lunch and at least three food items at breakfasts, and that the lunches and breakfasts include at least ½ cup of fruits or vegetables.

(ii) *Dietary specifications.* The State agency must conduct a meal compliance risk assessment for each school selected for review to determine which school is at highest risk for nutrition-related violations. The State agency must conduct a targeted menu review for the school at highest risk for noncompliance using one of the options specified in the FNS *Administrative Review Manual.* Under the targeted menu review options, the State agency may conduct or validate an SFA-conducted nutrient analysis for both breakfast and lunch, or further evaluate risk for noncompliance and, at a minimum, conduct a nutrient analysis if further examination shows the school is at high risk for noncompliance with the dietary specifications. The State agency is not required to assess compliance with the

dietary specifications when reviewing meals for preschoolers, and the National School Lunch Program's afterschool snack program and the seamless summer option.

(iii) *Performance-based cash assistance.* If the school food authority is receiving performance-based cash assistance under § 210.7(d), the State agency must assess the school food authority's meal service and documentation of lunches served and determine its continued eligibility for the performance-based cash assistance.

(h) *General areas of review.* The general areas listed in this paragraph reflect requirements that must be monitored by the State agency when conducting administrative reviews of the National School Lunch Program and the School Breakfast Program. Selected aspects of these general areas must also be monitored, as applicable and as specified in the FNS *Administrative Review Manual,* when conducting administrative reviews of the National School Lunch Program's afterschool snack program and seamless summer option, the Fresh Fruit and Vegetable Program, and the Special Milk Program. The general areas of review must include, but are not limited to, the following:

(1) *Resource management.* The State agency must conduct an off-site assessment of the school food authority's nonprofit school food service to evaluate the risk of noncompliance with resource management requirements. If risk indicators show that the school food authority is at high risk for noncompliance with resource management requirements, the State agency must conduct a comprehensive review of the following areas using procedures specified in the FNS *Administrative Review Manual.*

(i) *Maintenance of the nonprofit school food service account.* The State agency must confirm the school food authority's resource management is consistent with the maintenance of the nonprofit school food service account requirements in §§ 210.2, 210.14, and 210.19(a).

(ii) *Paid lunch equity.* The State agency must review compliance with the requirements for pricing paid lunches in § 210.14(e).

(iii) *Revenue from nonprogram foods.* The State agency must ensure that all non-reimbursable foods sold by the school food service, including, but not limited to, a la carte food items, adult meals, and vended meals, generate at least the same proportion of school food authority revenues as they contribute to school food authority food costs, as required in § 210.14(f).

(iv) *Indirect costs.* The State agency must ensure that the school food authority follows fair and consistent methodologies to identify and allocate allowable indirect costs to school food service accounts, as required in 2 CFR part 225 and § 210.14(g).

(2) *General Program Compliance.*

(i) *Free and reduced price process.* In the course of the review of each school food authority, the State agency must:

(A) Confirm the free and reduced price policy statement, as required in § 245.10 of this chapter, is implemented as approved.

(B) Ensure that the process used to verify children's eligibility for free and reduced price meals in a sample of household applications is consistent with the verification requirements, procedures, and deadlines established in § 245.6a of this chapter.

(C) Determine that, for each reviewed school, the lunch count system does not overtly identify children eligible for free and reduced price lunches, as required under § 245.8 of this chapter.

(D) Review at least 10 denied applications to evaluate whether the determining official correctly denied applicants for free and reduced price lunches, and whether denied households were provided notification in accordance with § 245.6(c)(7)of this chapter.

(E) Confirm that a second review of applications has been conducted and that information has been correctly reported to the State agency as required in § 245.11, if applicable.

(ii) *Civil rights.* The State agency must examine the school food authority's compliance with the civil rights provisions specified in § 210.23(b) to ensure that no child is denied benefits or otherwise discriminated against in any of the programs reviewed under this section because of race, color, national origin, age, sex, or disability.

(iii) *School food authority on-site monitoring.* The State agency must ensure that the school food authority conducts on-site reviews of each school under its jurisdiction, as required by §§ 210.8(a)(1) and 220.11(d) of this chapter, and monitors claims and readily observable general areas of review in accordance with §§ 210.8(a)(2) and (3), and 220.11(d) of this chapter.

(iv) *Competitive food standards.* The State agency must ensure that the local educational agency and school food authority comply with the nutrition standards for competitive foods in § 210.11 and § 220.12 of this chapter, and retain documentation demonstrating compliance with the competitive food service and standards.

(v) *Water.* The State agency must ensure that water is available and accessible to children at no charge as specified in § 210.10(a)(1)(i) and § 220.8(a)(1) of this chapter.

(vi) *Food safety.* The State agency must examine records to confirm that each school food authority under its jurisdiction meets the food safety requirements of § 210.13.

(vii) *Reporting and recordkeeping.* The State agency must determine that the school food authority submits reports and maintains records in accordance with program requirements in this part, and parts 220 and 245 of this chapter, and as specified in the FNS *Administrative Review Manual.*

(viii) *Program outreach.* The State agency must ensure the school food authority is conducting outreach activities to increase participation in the School Breakfast Program and the Summer Food Service Program, as required in § 210.12(d). If the State agency administering the Summer Food Service Program is not the same State agency that administers the National School Lunch Program, then the two State agencies must work together to implement outreach measures.

(ix) *Professional standards.* The State agency shall ensure the local educational agency and school food authority complies with the professional standards for school nutrition program directors, managers, and personnel established in § 210.30.

(x) *Local school wellness.* The State agency shall ensure the local educational agency complies with the local school wellness requirements.

(i) *Entrance and exit conferences and notification*—(1) *Entrance conference.* The State agency may hold an entrance conference with the appropriate school food authority staff at the beginning of the on-site administrative review to discuss the results of any off-site assessments, the scope of the on-site review, and the number of schools to be reviewed.

(2) *Exit conference.* The State agency must hold an exit conference at the close of the administrative review and of any subsequent follow-up review to discuss the violations observed, the extent of the violations and a preliminary assessment of the actions needed to correct the violations. The State agency must discuss an appropriate deadline(s) for completion of corrective action, provided that the deadline(s) results in the completion of corrective action on a timely basis.

(3) *Notification.* The State agency must provide written notification of the review findings to the school food authority's Superintendent (or

equivalent in a non-public school food authority) or authorized representative, preferably no later than 30 days after the exit conference for each review. The written notification must include the date(s) of review, date of the exit conference, review findings, the needed corrective actions, the deadlines for completion of the corrective action, and the potential fiscal action. As a part of the denial of all or a part of a Claim for Reimbursement or withholding payment in accordance with the provisions of this section, the State agency must provide the school food authority a written notice which details the grounds on which the denial of all or a part of the Claim for Reimbursement or withholding payment is based. This notice, must be provided by certified mail, or its equivalent, or sent electronically by email or facsimile. The notice must also include a statement indicating that the school food authority may appeal the denial of all or a part of a Claim for Reimbursement or withholding payment and the entity (*i.e.,* FNS or State agency) to which the appeal should be directed. The State agency must notify the school food authority, in writing, of the appeal procedures as specified in § 210.18(q) for appeals of State agency findings, and for appeals of FNS findings, provide a copy of § 210.29(d)(3) of the regulations.

(j) *Corrective action.* Corrective action is required for any violation under either the critical or general areas of the review. Corrective action must be applied to all schools in the school food authority, as appropriate, to ensure that deficient practices and procedures are revised system-wide. Corrective actions may include training, technical assistance, recalculation of data to ensure the accuracy of any claim that the school food authority is preparing at the time of the review, or other actions. Fiscal action must be taken in accordance with paragraph (l) of this section.

(1) *Extensions of the timeframes.* If the State agency determines that extraordinary circumstances make a school food authority unable to complete the required corrective action within the timeframes specified by the State agency, the State agency may extend the timeframes upon written request of the school food authority.

(2) *Documented corrective action.* Documented corrective action is required for any degree of violation of general or critical areas identified in an administrative review. Documented corrective action may be provided at the time of the review; however, it must be postmarked or submitted to the State agency electronically by email or facsimile, no later than 30 days from the deadline for completion of each required corrective action, as specified under paragraph (i)(2) of this section or as otherwise extended by the State agency under paragraph (j)(1) of this section. The State agency must maintain any documented corrective action on file for review by FNS.

(k) *Withholding payment.* At a minimum, the State agency must withhold all program payments to a school food authority as follows:

(1) *Cause for withholding.*

(i) The State agency must withhold all Program payments to a school food authority if documented corrective action for critical area violations is not provided with the deadlines specified in paragraph (j)(2) of this section; and/or

(ii) The State agency must withhold all Program payments to a school food authority if the State agency finds that corrective action for critical area violation was not completed; and/or

(iii) The State agency may withhold Program payments to a school food authority at its discretion, if the State agency found a critical area violation on a previous review and the school food authority continues to have the same error for the same cause; and/or

(iv) For general area violations, the State agency may withhold Program payments to a school food authority at its discretion, if the State agency finds that documented corrective action is not provided within the deadlines specified in paragraph (j)(2) of this section, corrective action is not complete, or corrective action was not taken as specified in the documented corrective action.

(2) *Duration of withholding.* In all cases, Program payments must be withheld until such time as corrective action is completed, documented corrective action is received and deemed acceptable by the State agency, or the State agency completes a follow-up review and confirms that the problem has been corrected. Subsequent to the State agency's acceptance of the corrective actions, payments will be released for all lunches served in accordance with the provisions of this part during the period the payments were withheld. In very serious cases, the State agency will evaluate whether the degree of non-compliance warrants termination in accordance with § 210.25.

(3) *Exceptions.* The State agency may, at its discretion, reduce the amount required to be withheld from a school food authority pursuant to paragraph (k)(1)(i) through (iii) of this section by as much as 60 percent of the total Program payments when it is determined to be in the best interest of the Program. FNS may authorize a State agency to limit withholding of funds to an amount less than 40 percent of the total Program payments, if FNS determines such action to be in the best interest of the Program.

(4) *Failure to withhold payments.* FNS may suspend or withhold Program payments, in whole or in part, to those State agencies failing to withhold Program payments in accordance with paragraph (k)(1) of this section and may withhold administrative funds in accordance with § 235.11(b) of this chapter. The withholding of Program payments will remain in effect until such time as the State agency documents compliance with paragraph (k)(1) of this section to FNS. Subsequent to the documentation of compliance, any withheld administrative funds will be released and payment will be released for any meals served in accordance with the provisions of this part during the period the payments were withheld.

(l) *Fiscal action.* The State agency must take fiscal action for all Performance Standard 1 violations and specific Performance Standard 2 violations identified during an administrative review as specified in this section. Fiscal action must be taken in accordance with the principles in § 210.19(c) and the procedures established in the FNS *Administrative Review Manual.* The State agency must follow the fiscal action formula prescribed by FNS to calculate the correct entitlement for a school food authority or a school.

(1) *Performance Standard 1 violations.* A State agency is required to take fiscal action for Performance Standard 1 violations, in accordance with this paragraph and paragraph (l)(3).

(i) For certification and benefit issuance errors cited under paragraph (g)(1)(i) of this section, the total number of free and reduced price meals claimed must be adjusted to reflect the State calculated free and reduced price certification and benefit issuance adjustment factors, respectively. The free adjustment factor is the ratio of the State agency count of students certified as eligible for free meals divided by the SFA count of students certified as eligible for free meals. The reduced price adjustment factor is the ratio of the State agency count of students certified as eligible for reduced price meals divided by the SFA count of students certified as eligible for reduced price meals.

(ii) For meal counting and claiming errors cited under paragraph (g)(1)(ii) of this section, the State agency must

apply fiscal action to the incorrect meal counts at the school food authority level, or only to the reviewed schools where violations were identified, as applicable.

(2) *Performance Standard 2 violations.* Except as noted in paragraphs (l)(2)(iii) and (iv) of this section, a State agency is required to apply fiscal action for Performance Standard 2 violations as follows:

(i) For missing food components and/or missing production records cited under paragraph (g)(2) of this section, the State agency must apply fiscal action.

(ii) For repeated violations involving milk type and vegetable subgroups cited under paragraph (g)(2) of this section, the State agency must apply fiscal action as follows:

(A) If an unallowable milk type is offered or there is no milk variety, any meals selected with the unallowable milk type or when there is no milk variety must also be disallowed/reclaimed; and

(B) If one vegetable subgroup is not offered over the course of the week reviewed, the reviewer should evaluate the cause(s) of the error to determine the appropriate fiscal action. All meals served in the deficient week may be disallowed/reclaimed.

(iii) For repeated violations involving food quantities and whole grain-rich foods cited under paragraph (g)(2) of this section, the State agency has discretion to apply fiscal action as follows:

(A) If the meals contain insufficient quantities of the required food components, the affected meals may be disallowed/reclaimed;

(B) If no whole grain-rich foods are offered during the week of review, meals for the entire week of review may be disallowed and/or reclaimed;

(C) If insufficient whole grain-rich foods are offered during the week of review, meals for one or more days during the week of review may be disallowed/reclaimed.

(D) If a weekly vegetable subgroup is offered in insufficient quantity to meet the weekly vegetable subgroup requirement, meals for one day of the week of review may be disallowed/reclaimed; and

(E) If the amount of juice offered exceeds the weekly limitation, meals for the entire week of review may be disallowed/reclaimed.

(iv) For repeated violations of calorie, saturated fat, sodium, and trans fat dietary specifications cited under paragraph (g)(2)(ii) of this section, the State agency has discretion to apply fiscal action to the reviewed school as follows:

(A) If the average meal offered over the course of the week of review does not meet one of the dietary specifications, meals for the entire week of review may be disallowed/reclaimed; and

(B) Fiscal action is limited to the school selected for the targeted menu review and must be supported by a nutrient analysis of the meals at issue using USDA-approved software.

(v) The following conditions must be met prior to applying fiscal action as described in paragraphs (l)(2)(ii) through (iv) of this section:

(A) Technical assistance has been given by the State agency;

(B) Corrective action has been previously required and monitored by the State agency; and

(C) The school food authority remains noncompliant with the meal requirements established in part 210 and part 220 of this chapter.

(3) *Duration of fiscal action.* Fiscal action must be extended back to the beginning of the school year or that point in time during the current school year when the infraction first occurred for all violations of Performance Standard 1 and Performance Standard 2. Based on the severity and longevity of the problem, the State agency may extend fiscal action back to previous school years. If corrective action occurs, the State agency may limit the duration of fiscal action for Performance Standard 1 and Performance Standard 2 violations as follows:

(i) *Performance Standard 1 certification and benefit issuance violations.* The total number of free and reduced price meals claimed for the review period and the month of the on-site review must be adjusted to reflect the State calculated certification and benefit issuance adjustment factors.

(ii) *Other Performance Standard 1 and Performance Standard 2 violations.* With the exception of violations described in paragraph (l)(3)(i) of this section, a State agency may limit fiscal action from the point corrective action occurs back through the beginning of the review period for errors.

(A) If corrective action occurs during the on-site review month or after, the State agency would be required to apply fiscal action from the point corrective action occurs back through the beginning of the on-site review month, *and* for the review period;

(B) If corrective action occurs during the review period, the State agency would be required to apply fiscal action from the point corrective action occurs back through the beginning of the review period;

(C) If corrective action occurs prior to the review period, no fiscal action would be required; and

(D) If corrective action occurs in a claim month between the review period and the on-site review month, the State agency would apply fiscal action only to the review period.

(4) *Performance-based cash assistance.* In addition to fiscal action described in paragraphs (l)(2)(i) through (v) of this section, school food authorities found to be out of compliance with the meal patterns or nutrition standards set forth in § 210.10 may not earn performance-based cash assistance authorized under § 210.4(b)(1) unless immediate corrective action occurs. School food authorities will not be eligible for the performance-based reimbursement beginning the month immediately following the administrative review and, at State discretion, for the month of review. Performance-based cash assistance may resume beginning in the first full month the school food authority demonstrates to the satisfaction of the State agency that corrective action has taken place.

(m) *Transparency requirement.* The State agency must make the most recent final administrative review results available to the public in an easily accessible manner, as follows:

(1) Post a summary of the most recent final administrative review results for each school food authority on the State agency's publicly available Web site. The summary must cover meal access and reimbursement, meal patterns and nutritional quality of school meals, school nutrition environment (including food safety, local school wellness policy, and competitive foods), civil rights, and program participation, in a format prescribed by FNS. It must be posted no later than 30 days after the State agency provides the results of administrative review to the school food authority; and

(2) Make a copy of the final administrative review report upon request.

(n) *Reporting requirement.* Each State agency must report to FNS the results of reviews by March 1 of each school year, on a form designated by FNS. In such annual reports, the State agency must include the results of all administrative reviews conducted in the preceding school year.

(o) *Recordkeeping.* Each State agency must keep records which document the details of all reviews and demonstrate the degree of compliance with the critical and general areas of review.

Records must be retained as specified in § 210.23(c) and include documented corrective action, and documentation of withholding of payments and fiscal action, including recoveries made. Additionally, the State agency must have on file:

(1) Criteria for selecting schools for administrative reviews in accordance with paragraphs (e)(2)(ii) and (i)(2)(ii) of this section.

(2) Documentation demonstrating compliance with the statistical sampling requirements in accordance with paragraph (g)(1)(i)(A)(*1*) of this section, if applicable.

(p) *School food authority appeal of State agency findings.* Except for FNS-conducted reviews authorized under § 210.29(d)(2), each State agency shall establish an appeal procedure to be followed by a school food authority requesting a review of a denial of all or a part of the Claim for Reimbursement or withholding payment arising from administrative review activity conducted by the State agency under § 210.18. State agencies may use their own appeal procedures provided the same procedures are applied to all appellants in the State and the procedures meet the following requirements: Appellants are assured of a fair and impartial hearing before an independent official at which they may be represented by legal counsel; decisions are rendered in a timely manner not to exceed 120 days from the date of the receipt of the request for review; appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend in person; and adequate notice is given of the time, date, place and procedures of the hearing. If the State agency has not established its own appeal procedures or the procedures do not meet the above listed criteria, the State agency shall observe the following procedures at a minimum:

(1) The written request for a review shall be postmarked within 15 calendar days of the date the appellant received the notice of the denial of all or a part of the Claim for Reimbursement or withholding of payment, and the State agency shall acknowledge the receipt of the request for appeal within 10 calendar days;

(2) The appellant may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant school food authority's representative to appear at a scheduled hearing shall constitute the appellant school food authority's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;

(3) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, or its equivalent, or sent electronically by email or facsimile, of the time, date and place of the hearing;

(4) Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review;

(5) The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section;

(6) The review official shall make a determination based on information provided by the State agency and the appellant, and on program regulations;

(7) Within 60 calendar days of the State agency's receipt of the request for review, by written notice, sent by certified mail, or its equivalent, or electronically by email or facsimile, the review official shall inform the State agency and the appellant of the determination of the review official. The final determination shall take effect upon receipt of the written notice of the final decision by the school food authority;

(8) The State agency's action shall remain in effect during the appeal process; and

(9) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(q) *FNS review activity.* The term ''State agency'' and all the provisions specified in paragraphs (a) through (h) of this section refer to FNS when FNS conducts administrative reviews in accordance with § 210.29(d)(2). FNS will notify the State agency of the review findings and the need for corrective action and fiscal action. The State agency shall pursue any needed follow-up activity.

■ 10. In § 210.19:

■ a. In the seventh sentence in paragraph (a)(1), add the words ''in a manner that is consistent with the paid lunch equity provision in § 210.14(e) and corresponding FNS guidance,'' after the word ''lunches,'';

■ b. Revise paragraph (a)(2);

■ c. In the fifth sentence of paragraph (a)(5), remove the words ''an on-site'' and the number ''5'' and add in their place the word ''a'' and the number ''3'', respectively.

■ d. Remove the sixth sentence of paragraph (a)(5);

■ e. In the second sentence of paragraph (c), remove the words ''the meal'' and add the number '', 215'' after the number ''210'';

■ f. In the second sentence of paragraph (c)(1), add the number '', 215'' after the number ''210'';

■ g. In the second sentence of paragraph (c)(2)(i), remove the word ''lunches'' and add in its place the word ''meals'';

■ h. In the third sentence of paragraph (c)(2)(i), remove the word ''lunch'' and add in its place the word ''meal'';

■ i. Remove the fourth sentence of (c)(2)(i);

■ j. In the first sentence of paragraph (c)(2)(ii), remove the reference ''§ 210.18(m)'' and add in its place the reference ''§ 210.18(l)''.

■ k. In the last sentence of paragraph (c)(2)(ii), remove the word ''lunches'' and add in its place the word ''meals'';

■ l. In paragraph (c)(2)(iii), remove the words ''lunches'' and ''lunch'' and add in their place the words ''meals'' and ''meal'', respectively; and

■ m. Remove paragraph (g).

The revision reads as follows:

§ 210.19 Additional responsibilities.

(a) * * *

(2) *Improved management practices.* The State agency must work with the school food authority toward improving the school food authority's management practices where the State agency has found poor food service management practices leading to decreasing or low child participation, menu acceptance, or program efficiency. The State agency should provide training and technical assistance to the school food authority or direct the school food authority to the National Food Service Management Institute to obtain such resources.

* * * * *

§ 210.20 [Amended]

■ 11. In § 210.20:

■ a. Remove paragraph (a)(5) and redesignate paragraphs (a)(6) through (a)(10) as paragraphs (a)(5) through (a)(9); and

■ b. Remove paragraph (b)(7) and redesignate paragraphs (b)(8) through (b)(15), as added on March 2, 2015 (80 FR 11092, effective July 1, 2015, as paragraphs (b)(7) through (b)(14).

§ 210.23 [Amended]

■ 12. In § 210.23, remove paragraph (d), and redesignate paragraph (e) as paragraph (d).

§ 210.29 [Amended]

■ 13. In § 210.29:
■ a. In paragraph (b), remove the words ''or § 210.18a'' and ''reviews and'';
■ b. In paragraph (d)(1), remove the words ''and/or any follow up review'' from the first sentence; and
■ c. In paragraph (d)(2), remove the words ''or any follow up reviews'' from the first sentence.

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

■ 14. The authority citation for 7 CFR part 215 continues to read as follows:

Authority: 42 U.S.C. 1772 and 1779.

■ 15. In § 215.11:
■ a. In the second sentence of paragraph (b)(2), remove the letter ''(i)'' from the reference ''§ 210.18(i)''; and
■ b. Revise the third sentence of paragraph (b)(2) to read as follows:

§ 215.11 Special responsibilities of State agencies.

* * * * *

(b) * * *

(2) * * * Compliance reviews of participating schools shall focus on the reviewed school's compliance with the required certification, counting, claiming, and milk service procedures.* * *

* * * * *

■ 16. Revise § 215.18 to read as follows:

§ 215.18 Information collection/recordkeeping—OMB assigned control numbers.

7 CFR section where requirements are described	Current OMB control number
215.3(d) *Agreement*	0584–0067
215.5(a)	0584–0005
	0584–0002
215.5(c) *FNS–777*	0584–0067
215.7 (a), (c)	0584–0005
215.7 (b)(2)	0584–0026
215.7(d) *FNS–66*	0584–0006
	0584–0005
215.10 (a), (b), (d)	0584–0005
	0584–0284
215.11 (b), (c)(1), (e)	0584–0005
215.11(c)(2) *FNS–10*	0584–0002
215.12 (a), (d), (e), (g)	0584–0005
215.13(a)	0584–0005
215.13a(a)–(e)	0584–0026
215.14	0584–0005
215.14a(a)–(c)	0584–0005
215.15	0584–0005

PART 220—SCHOOL BREAKFAST PROGRAM

■ 17. The authority citation for 7 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 18. In § 220.8:
■ a. In paragraph (h), remove the phrase ''Effective July 1, 2013 (SY 2013–2014), as part of the administrative review authorized under § 210.18 of this chapter, State agencies must conduct a weighted nutrient analysis for the school(s) selected for review'' from the first sentence, and add in its place the phrase ''When required by the administrative review process set forth in § 210.18, the State agency must conduct a weighted nutrient analysis''; and
■ b. Revise paragraphs (i) and (j) to read as follows:

§ 220.8 Meal requirements for breakfasts.

* * * * *

(i) *Nutrient analyses of school meals.* Any nutrient analysis of school breakfasts conducted under the administrative review process set forth in § 210.18 of this chapter must be performed in accordance with the procedures established in § 210.10(i) of this chapter. The purpose of the nutrient analysis is to determine the average levels of calories, saturated fat, and sodium in the breakfasts offered to each age grade group over a school week.

(j) *Responsibility for monitoring meal requirements.* Compliance with the applicable breakfast requirements in paragraph (b) of this section, including the dietary specifications for calories, saturated fat, sodium and trans fat will be monitored by the State agency through administrative reviews authorized in § 210.18 of this chapter.

* * * * *

■ 19. In § 220.11, add paragraph (d) to read as follows:

§ 220.11 Reimbursement procedures.

* * * * *

(d) The school food authority shall establish internal controls which ensure the accuracy of breakfast counts prior to the submission of the monthly Claim for Reimbursement. At a minimum, these internal controls shall include: An on-site review of the breakfast counting and claiming system employed by each school within the jurisdiction of the school food authority; comparisons of daily free, reduced price and paid breakfast counts against data which will assist in the identification of breakfast counts in excess of the number of free, reduced price and paid breakfasts served each day to children eligible for such breakfasts; and a system for following up on those breakfast counts which suggest the likelihood of breakfast counting problems.

(1) *On-site reviews.* Every school year, each school food authority with more than one school shall perform no less than one on-site review of the breakfast counting and claiming system and the readily observable general areas of review identified under § 210.18(h) of this chapter, as specified by FNS, for each school under its jurisdiction. The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedures or general review areas, the school food authority shall ensure that the school implements corrective action, and within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problems. Each on-site review shall ensure that the school's claim is based on the counting system and that the counting system, as implemented, yields the actual number of reimbursable free, reduced price and paid breakfasts, respectively, served for each day of operation.

(2) *School food authority claims review process.* Prior to the submission of a monthly Claim for Reimbursement, each school food authority shall review the breakfast count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement. The objective of this review is to ensure that monthly claims include only the number of free, reduced price and paid breakfasts served on any day of operation to children currently eligible for such breakfasts.

* * * * *

■ 20. In § 220.13:
■ a. In the sixth sentence of paragraph (b)(2), remove the word ''SF–269'' and add in its place the word ''FNS–777'';
■ b. Revise paragraphs (f)(2), (f)(3) and (f)(4);
■ c. Revise paragraph (g); and
■ d. Amend paragraph (j) by removing the words ''supervisory assistance'' and adding in their place the word ''administrative''.

The revisions read as follows:

§ 220.13 Special responsibilities of State agencies.

* * * * *

(f) * * *

(2) State agencies must conduct administrative reviews of the school meal programs specified in § 210.18 of this chapter to ensure that schools participating in the designated programs comply with the provisions of this title. The reviews of selected schools must focus on compliance with the critical and/or general areas of review identified in § 210.18 of this chapter for each program, as applicable, and must be conducted as specified in the FNS *Administrative Review Manual* for each program. School food authorities may appeal a denial of all or a part of the Claim for Reimbursement or withholding of payment arising from review activity conducted by the State agency under § 210.18 of this chapter or by FNS under § 210.29(d)(2) of this chapter. Any such appeal shall be subject to the procedures set forth under § 210.18(p) of this chapter or § 210.29(d)(3) of this chapter, as appropriate.

(3) For the purposes of compliance with the meal requirements in §§ 220.8 and 220.23, the State agency must follow the provisions specified in § 210.18(g) of this chapter, as applicable.

(4) State agency assistance must include visits to participating schools selected for administrative reviews under § 210.18 of this chapter to ensure compliance with program regulations and with the Department's nondiscrimination regulations (part 15 of this title), issued under title VI, of the Civil Rights Act of 1964.

* * * * *

(g) State agencies shall adequately safeguard all assets and monitor resource management as required under § 210.18 of this chapter, and in conformance with the procedures specified in the FNS *Administrative Review Manual,* to assure that assets are used solely for authorized purposes.

* * * * *

§ 220.14 [Amended]

■ 21. In paragraph (h), add the words ''food authority'' after the word ''school'', and remove the words ''§ 220.8(g), § 220.8(i)(2) and (i)(3), whichever is applicable'' and add in their place the word ''§ 220.8''.

■ 22. Revise § 220.22 to read as follows:

§ 220.22 Information collection/ recordkeeping—OMB assigned control numbers.

7 CFR section where requirements are described	Current OMB control number
220.3(e)	0584–0067
220.5	0584–0012
220.7(a)–(e)	0584–0006
	0584–0012
	0584–0067
220.8(f)	0584–0012
220.9(a)	0584–0012
220.11 (a), (b), (e)	0584–0012
	0584–0002
	0584–0067
220.12(b)	0584–0012
220.13 (a–1)–(c), (f)	0584–0026
	0584–0002
	0584–0067
	0584–0012
220.14(d)	0584–0012
220.15	0584–0012

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

■ 23. The authority citation for 7 CFR part 235 continues to read as follows:

Authority: Secs. 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779).

■ 24. In § 235.2, add a definition of ''Large school food authority'' in alphabetical order to read as follows:

§ 235.2 Definitions.

* * * * *

Large school food authority means, in any State:

(1) All school food authorities that participate in the National School Lunch Program (7 CFR part 210) and have enrollments of 40,000 children or more each; or

(2) If there are less than two school food authorities with enrollments of 40,000 or more, the two largest school food authorities that participate in the National School Lunch Program (7 CFR part 210) and have enrollments of 2,000 children or more each.

* * * * *

Date: May 1, 2015.

Yvette S. Jackson,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2015–10613 Filed 5–8–15; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–0841; Airspace Docket No. 15–ACE–3]

Proposed Amendment of Class E Airspace for the Following Nebraska Towns: Albion, NE; Bassett, NE; Lexington, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Albion Municipal Airport, Albion, NE; Rock County Airport, Bassett, NE; and Jim Kelly Field Airport, Lexington, NE. Decommissioning of the non-directional radio beacons (NDB) and/or cancellation of NDB approaches due to advances in Global Positioning System (GPS) capabilities has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports. Also, the geographic coordinates would be updated for Rock County Airport and Jim Kelly Field Airport.

DATES: 0901 UTC. Comments must be received on or before June 25, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–0841/Airspace Docket No. 15–ACE–3, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this proposed incorporation by reference material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Roger Waite, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest

Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7652.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–0841/Airspace Docket No. 15–ACE–3.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures (SIAP) at Albion Municipal Airport, Albion, NE; Rock County Airport, Bassett, NE; and Jim Kelly Field Airport, Lexington, NE. Airspace reconfiguration is necessary due to the decommissioning of NDBs and/or the cancellation of the NDB approach at each airport. Controlled airspace is necessary for the safety and management of IFR operations for SIAPs at the airports. The geographic coordinates for Rock County Airport and Jim Kelly Field would be updated to be in concert with the FAAs aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014 and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at the Nebraska airports listed in this NPRM.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ACE NE E5 Albion, NE [Amended]

Albion Municipal Airport, NE
(Lat. 41°43′43″ N., long. 98°03′21″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albion Municipal Airport.

* * * * *

ACE NE E5 Bassett, NE [Amended]

Rock County Airport, NE
(Lat. 42°34′16″ N., long. 99°34′10″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Rock County Airport.

* * * * *

ACE NE E5 Lexington, NE [Amended]

Jim Kelly Field, NE

(Lat. 40°47′26″ N., long. 99°46′33″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Jim Kelly Field.

Issued in Fort Worth, TX, on April 24, 2015.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–11222 Filed 5–8–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–0843; Airspace Docket No. 15–ASW–5]

Proposed Amendment of Class E Airspace for the Following Louisiana Towns: Jonesboro, LA and Winnfield, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Jonesboro Airport, Jonesboro, LA, and David G. Joyce Airport, Winnfield, LA. Decommissioning of the non-directional radio beacons (NDB) and/or cancellation of NDB approaches due to advances in Global Positioning System (GPS) capabilities has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports.

DATES: 0901 UTC. Comments must be received on or before June 25, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–0843/Airspace Docket No. 15–ASW–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this proposed incorporation by reference material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Roger Waite, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7652.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–0843/Airspace Docket No. 15–ASW–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures (SIAP) at Jonesboro Airport, Jonesboro, LA, and David G. Joyce Airport, Winnfield, LA. Airspace reconfiguration is necessary due to the decommissioning of NDBs and/or the cancellation of the NDB approach at each airport. Controlled airspace is necessary for the safety and management of IFR operations for SIAPs at the airports.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant

preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at the Louisiana airports listed in this NPRM.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ASW LA E5 Jonesboro, LA [Amended]

Jonesboro Airport, LA
(Lat. 32°12′07″ N., long. 92°43′59″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Jonesboro Airport.

* * * * *

ASW LA E5 Winnfield LA [Amended]

David G. Joyce Airport, LA
(Lat. 31°57′49″ N., long. 92°39′37″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of David G. Joyce Airport.

Issued in Fort Worth, TX, on April 24, 2015.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–11223 Filed 5–8–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107595–11]

RIN 1545–BK09

Application of Modified Carryover Basis to General Basis Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance regarding the application of the modified carryover basis rules of section 1022 of the Internal Revenue Code (Code). Specifically, the proposed regulations will modify provisions of the Treasury Regulations involving basis rules by including a reference to section 1022 where appropriate. The regulations will affect property transferred from certain decedents who died in 2010. The regulations reflect changes to the law made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

DATES: Written or electronic comments and requests for a public hearing must be received by August 10, 2015.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–107595–11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–107595–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (REG–107595–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mayer R. Samuels, (202) 317–6859; concerning submissions of comments or a request for a public hearing, Oluwafunmilayo Taylor, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Subtitle A of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107–16 (EGTRRA) enacted section 2210 of the Code, which made chapter 11 (the estate tax) inapplicable to the estate of any decedent who died in 2010. Subtitle E of title V of EGTRRA enacted section 1022 regarding a modified carryover basis system applicable during 2010. On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111–312 (TRUIRJCA) became law, and section 301(a) of TRUIRJCA retroactively reinstated the estate and generation-skipping transfer taxes. However, section 301(c) of TRUIRJCA allows the executor of the estate of a decedent who died in 2010 to elect to apply the Code as though section 301(a) of TRUIRJCA did not apply with respect to chapter 11 and with respect to property acquired or passing from the decedent (within the meaning of section 1014(b) of the Code). Thus, section 301(c) of TRUIRJCA allows the executor of the estate of a decedent who died in 2010 to elect not to have the provisions of chapter 11 apply to the decedent's estate, but rather to have the provisions of section 1022 apply (Section 1022 Election).

Generally, under section 1014(a), the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent is the fair market value of the property at the date of the decedent's death. However, if the decedent died in 2010 and the decedent's executor, as defined in section 2203, makes the Section 1022 Election, then the basis of property in the hands of a person acquiring the property from that decedent is governed by section 1022 and not by section 1014.

Section 1022(a)(1) generally provides that property acquired from a decedent

(within the meaning of section 1022(e)) is treated as having been transferred by gift. If the decedent's adjusted basis is less than or equal to the property's fair market value (FMV) determined as of the decedent's date of death, the recipient's basis is the adjusted basis of the decedent. If the decedent's adjusted basis is greater than that FMV, the recipient's basis is limited to that FMV. See section 1022(a)(2).

If the decedent's adjusted basis in the property is less than the property's FMV on the decedent's date of death, sections 1022(b) and 1022(c) allow the executor of a decedent's estate to allocate additional basis (Basis Increase) to certain assets that both are owned by the decedent (within the meaning of section 1022(d)) at death and are acquired from the decedent (within the meaning of section 1022(e)). However, the property's total basis may not exceed the property's FMV on the date of death.

Although section 1022 was applicable only to decedents dying in calendar year 2010, basis determined pursuant to that section will continue to be relevant until all of the property whose basis is determined under that section has been sold or otherwise disposed of. Accordingly, the existing regulations need to be updated to incorporate appropriate references to basis determined under section 1022.

Explanation of Provisions

These proposed regulations incorporate into the existing regulations, as appropriate, references to section 1022 to ensure that references to basis also include basis as determined under that section. Some changes involve simply inserting the words ''or section 1022'', ''and 1022'', or similar references. Others (such as § 1.742–1) require the insertion of a new sentence or an example to expressly address the applicability of section 1022. A few changes (such as proposed § 1.684–3) require the inclusion of a new section to provide a detailed explanation of the application of section 1022 in the particular context of the existing regulation. The proposed regulations also provide cross references for section 1022 when appropriate and make other minor, non-substantive changes. Language revisions serve solely to conform the existing regulations to the provisions of section 1022 and no additional changes are intended. The more significant changes are briefly described below.

Section 1.48–12(b)(2)(vii)(B) of the proposed regulations provides that, if a transferee's basis is determined under section 1022, any qualified rehabilitation expenditures incurred by the decedent under section 48 within the measuring period that are treated as having been incurred by the transferee decrease the transferee's basis for purposes of the substantial rehabilitation test.

Section 1.83–4(b)(1) of the proposed regulations provides that, if property to which section 83 applies is acquired by any person while such property is substantially nonvested, such person's basis in the property reflects any adjustments to basis provided under section 1022, as well as under sections 1015 and 1016.

Sections 1.179–4(c)(1)(iv), 1.267(d)–1(a)(3), 1.336–1(b)(5)(i)(A) and 1.355–6(d)(1)(i)(A)(*2*) of the proposed regulations provide that property acquired from a decedent in a transaction in which the recipient's basis is determined under section 1022 is not acquired by purchase or exchange for purposes of sections 179, 267, 336, and 355(d).

Section 1.197–2(h)(5)(i) of the proposed regulations provides that the anti-churning rules of § 1.197–2(h) do not apply to the acquisition of a section 197(f)(9) intangible if the acquiring taxpayer's basis in the intangible is determined under section 1022.

Section 1.306–3(e) of the proposed regulations provides that section 306 stock continues to be classified as section 306 stock if the basis of such stock is determined by reference to the decedent-stockholder's basis under section 1022. In addition, the revision of the last sentence of the existing regulation clarifies the reference to ''the optional valuation date under section 1014'' by changing the language to refer expressly to the election to use the alternate valuation date under section 2032.

Section 1.382–9 of the proposed regulations provides that for purposes of § 1.382–9(d)(5)(i), the definition of qualified transfer is expanded to include situations where the transferee's basis in the indebtedness is determined under section 1022.

Section 1.421–2(c)(4) of the proposed regulations provides that an option granted under an employee stock purchase plan acquires a basis, determined under section 1014 (or section 1022, if applicable), only if the transfer of the share pursuant to the exercise of such option qualifies for the special tax treatment provided by section 421(a).

Section 1.423–2(k)(2) of the proposed regulations provides that if the special rules provided under § 1.423–2(k) are applicable to a share of stock upon the death of an employee, then the basis of the share in the hands of the estate or the person receiving the stock by bequest or inheritance shall be determined under section 1014 (or section 1022, if applicable).

Section 1.467–7(c)(2) of the proposed regulations provides that section 467 recapture does not apply to a disposition on death of the transferor if the basis of the property in the hands of the transferee is determined under section 1022. However, section 467 recapture does apply to property that constitutes a right to receive an item of income in respect of a decedent. Section 1.467–7(c)(4) of the proposed regulations provides that, if the transferee subsequently disposes of the property in a transaction to which § 1.467–7(a) applies, the prior understated inclusion is computed by taking into account the amounts attributable to the period of the transferor's ownership of the property prior to the first disposition.

Section 1.617–3(d)(5)(ii)(*b*) of the proposed regulations provides that the amount of the adjusted exploration expenditures for mining property in the hands of the transferee immediately after a disposition of property that is subject to section 1022 is equal to the amount of the adjusted exploration expenditures for mining property in the hands of the transferor immediately before the disposition, minus the amount of any gain taken into account under section 617(d). In addition, under § 1.617–4(c)(1)(i), no gain is recognized on the gift of mining property. For purposes of determining gain from the disposition of certain mining property, the term ''gift'' is expanded to include disposition of property with a basis that is determined under section 1022.

Section 684 generally requires gain to be recognized on any transfer of appreciated property by a U.S. person to a foreign non-grantor trust or foreign estate. For decedents dying in 2010, section 684 also applies to certain transfers of property by reason of death to nonresident aliens. Gain is determined by reference to the fair market value of the property over the adjusted basis of such property in the hands of the transferor. Section 1.684–3(c) currently provides that, in the case of a transfer of property by reason of death of a U.S. transferor to a foreign non-grantor trust, no gain recognition is required if the basis of the property in the hands of the trust is determined under section 1014(a).

Section 1.684–3(c) of the proposed regulations provides that this rule is modified to clarify the application of section 684 to transfers of property by reason of death of U.S. transferor decedents dying in 2010. If the executor

of a U.S. decedent does not make a Section 1022 Election, the proposed regulations confirm that the general exception to gain recognition will apply. If the executor of a U.S. decedent does make a Section 1022 Election, the proposed regulations provide, consistent with Rev. Proc. 2011–41 (2011–35 IRB 188 (August 29, 2011)) (see § 601.601(d)(2)(ii)(*b*) of this chapter) and Notice 2011–66 (2011–35 IRB 184 (August 29, 2011)) (see § 601.601(d)(2)(ii)(*b*) of this chapter), that there is gain recognition. Any basis increase that the executor allocates under section 1022 will reduce the amount of gain in that property for purposes of section 684.

Section 1.742–1(a) of the proposed regulations provides that the basis of a partnership interest acquired from a decedent who died in 2010, and whose executor made a Section 1022 Election, is the lower of the adjusted basis of the decedent or fair market value of the interest at the date of decedent's death. The basis of property acquired from a decedent may be further increased under section 1022(b) and/or 1022(c), but not above the fair market value of the interest on the date of the decedent's death.

Section 1.995–4(d)(2) of the proposed regulations provides that the period during which a shareholder of stock in a DISC has held stock includes the period he is considered to have held it by reason of the application of section 1223 and, if his basis is determined in whole or in part under the provisions of section 1022, the holding period of the decedent.

Section 1.1014–4(a) of the proposed regulations provides that the basis of property acquired from a decedent, including basis determined under section 1022, is uniform in the hands of every person having possession or enjoyment of the property at any time, whether obtained under the will or other instrument or under the laws of descent and distribution.

Section 1.1014–5(b) of the proposed regulations provides that, in determining gain or loss from the sale or other disposition of a term interest in property the adjusted basis of which is determined pursuant to section 1022, that part of the adjusted uniform basis assignable under the rules of § 1.1014–5(a) to the interest sold or otherwise disposed of is disregarded to the extent and in the manner provided by section 1001(e).

Section 1.1223–1(b) of the proposed regulations provides that the holding period under section 1223 of the recipient of property acquired from a decedent who died in 2010, and whose executor made a Section 1022 Election, includes the period that the property was held by the decedent.

Sections 1.1245–2(c)(2)(ii)(*d*) and 1.1245–3(a)(3) of the proposed regulations provide that, if section 1245 property is acquired from a decedent who died in 2010 and whose executor made a Section 1022 Election, the amount of the adjustments reflected in the adjusted basis of the property in the hands of the transferee immediately after the transfer is equal to the amount of the adjustments reflected in the adjusted basis of the property in the hands of the transferor immediately before the transfer, minus the amount of any gain taken into account under section 1245(a)(1) by the transferor upon the transfer. Further, even though property is not of a character subject to the allowance for depreciation in the hands of the taxpayer, the property is section 1245 property if the taxpayer's basis in the property is determined under section 1022 and the property was of a character subject to the allowance for depreciation in the hands of the decedent.

Section 1.1245–4(a)(1) of the proposed regulations provides that no gain is recognized under section 1245(a)(1) upon a transfer of section 1245 property from a decedent whose executor made the Section 1022 Election.

Section 1.1250–4(c)(5) of the proposed regulations provides that the holding period under section 1250(e) for the recipient of property acquired from a decedent who died in 2010, and whose executor made a Section 1022 Election, includes the period that the property was held by the decedent.

Section 1.1254–2(a)(1) of the proposed regulations provides that no gain is recognized under section 1254(a)(1) upon a transfer of natural resource recapture property from a decedent who died in 2010 and whose executor made a Section 1022 Election.

Sections 1.1254–3(b), 1.1254–4(e)(4), and 1.1254–5(c)(2)(iv) of the proposed regulations provide that, for purposes of determining the amount of section 1254 costs from the disposition of natural resource recapture property, the term ''gift'' is expanded to include the transfer of property with a basis that is determined under section 1022.

Section 1.1296–1(d)(4) of the proposed regulations provides that the basis of stock of a passive foreign investment company for which a section 1296 election was in effect as of the date of the decedent's death that is acquired from a decedent is the lower of the adjusted basis of the stock in the hands of the decedent immediately before his death or the basis that would have been determined under section 1014 or section 1022, as applicable, without regard to this paragraph.

Section 1.1312–7(b) of the proposed regulations provides that the taxpayer with respect to whom the erroneous treatment occurred must be a taxpayer who had title to the property at the time of the erroneously treated transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title, if the basis of the property in the hands of the taxpayer with respect to whom the determination is made is determined under section 1022.

Proposed Effective/Applicability Date

These regulations are proposed to apply on and after the date the regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available at *www.regulations.gov* or upon request for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Mayer R. Samuels, Office of the Associate Chief Counsel

(Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.48–12 is amended by revising the last sentence of paragraph (b)(2)(vii)(B) and adding paragraph (g) to read as follows:

§ 1.48–12 Qualified rehabilitated building; expenditures incurred after December 31, 1981.

* * * * *

(b) * * *

(2) * * *

(vii) * * *

(B) * * * If a transferee's basis is determined under section 1014 or section 1022, any expenditures incurred by the decedent within the measuring period that are treated as having been incurred by the transferee under paragraph (c)(3)(ii) of this section shall decrease the transferee's basis for purposes of the substantial rehabilitation test.

* * * * *

(g) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.48–12 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 3.** Section 1.83–4 is amended by revising the last sentence of paragraph (b)(1) and adding paragraph (d) to read as follows:

§ 1.83–4 Special rules.

* * * * *

(b) * * *

(1) * * * Such basis shall also reflect any adjustments to basis provided under sections 1015, 1016, and 1022.

* * * * *

(d) *Effective/applicability date.* The provisions in this section are applicable for taxable years beginning on or after July 21, 1978. The provisions of paragraph (b)(1) of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 4.** Section 1.179–4 is amended by revising the first sentence of paragraph (c)(1)(iv) to read as follows:

§ 1.179–4 Definitions.

* * * * *

(c) * * *

(1) * * *

(iv) The property is not acquired by purchase if the basis of the property in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, is determined under section 1014(a), relating to property acquired from a decedent, or is determined under section 1022, relating to the basis of property acquired from certain decedents who died in 2010.

* * *

* * * * *

■ **Par. 5.** Section 1.179–6 is amended by:

■ a. Revising the section heading and the first sentence of paragraph (a).

■ b. Adding paragraph (d).

The revision and addition read as follows:

§ 1.179–6 Effective/applicability dates.

(a) * * * Except as provided in paragraphs (b), (c), and (d) of this section, the provisions of §§ 1.179–1 through 1.179–5 apply for property placed in service by the taxpayer in taxable years ending after January 25, 1993. * * *

* * * * *

(d) *Application of § 1.179–4(c)(1)(iv).* The provisions of § 1.179–4(c)(1)(iv) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 6.** Section 1.197–2 is amended by revising paragraphs (h)(5)(i) and (h)(12)(viii) and adding paragraph (l)(5) to read as follows:

§ 1.197–2 Amortization of goodwill and certain other intangibles.

* * * * *

(h) * * *

(5) * * *

(i) The acquisition of a section 197(f)(9) intangible if the acquiring taxpayer's basis in the intangible is determined under section 1014(a) or 1022; or

* * * * *

(12) * * *

(viii) *Operating rule for transfers upon death.* For purposes of this paragraph (h)(12), if the basis of a partner's interest in a partnership is determined under section 1014(a) or 1022, such partner is treated as acquiring such interest from a person who is not related to such partner, and such interest is treated as having previously been held by a person who is not related to such partner.

* * * * *

(l) * * *

(5) *Application of section 1022.* The provisions of § 1.197–2 relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 7.** Section 1.267(d)–1 is amended by revising paragraph (a)(3) to read as follows:

§ 1.267(d)–1 Amount of gain where loss previously disallowed.

(a) * * *

(3) The benefit of the general rule is available only to the original transferee but does not apply to any original transferee (for example, a donee or a person acquiring property from a decedent where the basis of property is determined under section 1014 or 1022) who acquired the property in any manner other than by purchase or exchange.

* * * * *

■ **Par. 8.** Section 1.267(d)–2 is amended by revising the section heading and adding a sentence to the end of the paragraph to read as follows:

§ 1.267(d)–2 Effective/applicability dates.

* * * The provisions of § 1.267(d)–1(a)(3) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 9.** Section 1.273–1 is revised to read as follows:

§ 1.273–1 Life or terminable interests.

(a) *In general.* Amounts paid as income to the holder of a life or a terminable interest acquired by gift, bequest, or inheritance shall not be subject to any deduction for shrinkage (whether called by depreciation or any other name) in the value of such interest due to the lapse of time. In other words, the holder of such an interest so acquired may not set up the value of the expected future payments as corpus or principal and claim deduction for shrinkage or exhaustion thereof due to the passage of time. For the treatment generally of distributions to beneficiaries of an estate or trust, see Subparts A, B, C, and D (section 641 and following), Subchapter J, Chapter 1 of the Code, and corresponding regulations. For basis of property

acquired from a decedent and by gifts and transfers in trust, see sections 1014, 1015, and 1022, and corresponding regulations.

(b) *Effective/applicability date.* The provisions in this section are applicable for taxable years beginning on or after September 16, 1958. The provisions of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 10.** Section 1.306–3 is amended by removing the last sentence of paragraph (e) and adding two sentences in its place to read as follows:

§ 1.306–3 Section 306 stock defined.

* * * * *

(e) * * * Section 306 stock ceases to be so classified if the basis of such stock is determined by reference to its fair market value on the date of the decedent-stockholder's death under section 1014 or the optional valuation date under section 2032. Section 306 stock continues to be so classified if the basis of such stock is determined under section 1022.

* * * * *

■ **Par. 11.** Section 1.306–4 is added to read as follows:

§ 1.306–4 Effective/applicability date.

The provisions of §§ 1.306–1 through 1.306–3 are applicable on or after June 22, 1954. The provisions of § 1.306–3 relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 12.** Section 1.336–1 is amended by revising paragraph (b)(5)(i)(A) to read as follows:

§ 1.336–1 General principles, nomenclature, and definitions for a section 336(e) election.

* * * * *

(b) * * *

(5) * * *

(i) * * *

(A) The basis of the stock in the hands of the purchaser is not determined in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom the stock is acquired, is not determined under section 1014(a) (relating to property acquired from a decedent), or is not determined under section 1022 (relating to the basis of property acquired from certain decedents who died in 2010);

* * * * *

■ **Par. 13.** Section 1.336–5 is amended by revising the section heading and adding a sentence to the end of the paragraph to read as follows:

§ 1.336–5 Effective/applicability dates.

* * * The provisions of § 1.336–1(b)(5)(i)(A) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 14.** Section 1.355–6 is amended by revising paragraphs (d)(1)(i)(A)(*2*) and (g) to read as follows:

§ 1.355–6 Recognition of gain on certain distributions of stock or securities in controlled corporation.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(A) * * *

(*2*) Under section 1014(a) or 1022; and

* * * * *

(g) *Effective/applicability dates.* This section applies to distributions occurring after December 20, 2000, except that they do not apply to any distributions occurring pursuant to a written agreement that is (subject to customary conditions) binding on December 20, 2000, and at all later times. The provisions of paragraph (d)(1)(i)(A)(*2*) of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 15.** Section 1.382–9 is amended by revising paragraphs (d)(5)(ii)(D) and (d)(6)(i) to read as follows:

§ 1.382–9 Special rules under section 382 for corporations under the jurisdiction of a court in a title 11 or similar case.

* * * * *

(d) * * *

(5) * * *

(ii) * * *

(D) The transferee's basis in the indebtedness is determined under section 1014, 1015, or 1022 or with reference to the transferor's basis in the indebtedness;

* * * * *

(6) *Effective/applicability date*—(i) *In general.* This paragraph (d) applies to ownership changes occurring on or after March 17, 1994. The provisions of paragraph (d)(5)(ii)(D) of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

■ **Par. 16.** Section 1.421–2 is amended by:

■ a. Revising paragraphs (c)(4)(i)(*a*) and (c)(4)(ii).

■ b. Revising paragraph (f) heading and adding paragraph (f)(3).

The revisions and addition read as follows:

§ 1.421–2 General rules.

* * * * *

(c) * * *

(4)(i)(*a*) In the case of the death of an optionee, the basis of any share of stock acquired by the exercise of an option under this paragraph (c), determined under section 1011, shall be increased by an amount equal to the portion of the basis of the option attributable to such share. For example, if a statutory option to acquire 10 shares of stock has a basis of $100, the basis of one share acquired by a partial exercise of the option, determined under section 1011, would be increased by 1/10th of $100, or $10. The option acquires a basis, determined under section 1014(a) or under section 1022, if applicable, only if the transfer of the share pursuant to the exercise of such option qualifies for the special tax treatment provided by section 421(a). To the extent the option is so exercised, in whole or in part, it will acquire a basis equal to its fair market value (or the basis as determined under section 1022, if applicable) at the date of the employee's death or, if an election is made under section 2032, its value at its applicable valuation date. In certain cases, the basis of the share is subject to the adjustments provided by paragraphs (c)(4)(i)(*b*) and (*c*) of this section, but such adjustments are only applicable in the case of an option that is subject to section 423(c).

* * * * *

(ii) If a statutory option is not exercised by the estate of the individual to whom the option was granted, or by the person who acquired such option by bequest or inheritance or by reason of the death of such individual, the option shall be considered to be property that constitutes a right to receive an item of income in respect of a decedent to which the rules of sections 691 and 1014(c) (or section 1022(f), if applicable) apply.

* * * * *

(f) *Effective/applicability date.* * * *

* * * * *

(3) *Application of section 1022.* The provisions of § 1.421–2(c) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 17.** Section 1.423–2 is amended by:

■ a. Revising the third sentence of paragraph (k)(2).

■ b. Adding a sentence to the end of paragraph (l).

The revision and addition read as follows:

§ 1.423–2 Employee stock purchase plan defined.

* * * * *

(k) * * *

(2) * * * If the special rules provided in this paragraph (k) are applicable to a share of stock upon the death of an employee, then the basis of the share in the hands of the estate or the person receiving the stock by bequest or inheritance shall be determined under section 1014 or under section 1022, if applicable, and shall not be increased by reason of the inclusion upon the decedent's death of any amount in the decedent's gross income under this paragraph (k). * * *

* * * * *

(l) * * * The provisions of § 1.423–2 relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 18.** Section 1.424–1 is amended by revising the last sentence of paragraph (c)(2) and adding paragraph (g)(3) to read as follows:

§ 1.424–1 Definitions and special rules applicable to statutory options.

* * * * *

(c) * * *

(2) * * * For determination of basis in the hands of the survivor where joint ownership is terminated by the death of one of the owners, see section 1014 or section 1022, if applicable.

* * * * *

(g) * * *

(3) *Application of section 1022.* The provisions of § 1.424–1(c)(2) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 19.** Section 1.467–7 is amended by revising paragraph (c)(2) and revising the first sentence of paragraph (c)(4) to read as follows:

§ 1.467–7 Section 467 recapture and other rules relating to dispositions and modifications.

* * * * *

(c) * * *

(2) *Dispositions at death.* Paragraph (a) of this section does not apply to a disposition if the basis of the property in the hands of the transferee is determined under section 1014(a) or section 1022. However, see paragraph (c)(4) of this section for dispositions of property subject to section 1022 by transferees. This paragraph (c)(2) does not apply to property that constitutes a right to receive an item of income in respect of a decedent. See sections 691, 1014(c), and 1022(f).

* * * * *

(4) * * * If the recapture amount with respect to a disposition of property (the first disposition) is limited under paragraph (c)(1), (c)(2) (if the basis of the property in the hands of the transferee is determined under section 1022), or (c)(3) of this section and the transferee subsequently disposes of the property in a transaction to which paragraph (a) of this section applies, the prior understated inclusion determined under paragraph (b)(2) of this section is computed by taking into account the amounts attributable to the period of the transferor's ownership of the property prior to the first disposition. * * *

* * * * *

■ **Par. 20.** Section 1.467–9 is amended by revising the section heading and adding paragraph (f) to read as follows:

§ 1.467–9 Effective/applicability dates and automatic method changes for certain agreements.

* * * * *

(f) *Application of section 1022.* The provisions of § 1.467–7(c) relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 21.** Section 1.617–3 is amended by revising paragraph (d)(5)(ii)(*b*) to read as follows:

§ 1.617–3 Recapture of exploration expenditures.

* * * * *

(d) * * *

(5) * * *

(ii) * * *

(*b*) The transactions referred to in paragraph (d)(5)(ii)(*a*) of this section are: (*1*) A disposition that is in part a sale or exchange and in part a gift;

(*2*) A disposition that is described in section 617(d) through the incorporation by reference of the provisions of section 1245(b)(3) (relating to certain tax free transactions); or

(*3*) A transfer at death where basis of property in the hands of the transferee is determined under section 1022.

* * * * *

■ **Par. 22.** Section 1.617–4 is amended by revising the second sentence of paragraph (c)(1)(i) to read as follows:

§ 1.617–4 Treatment of gain from disposition of certain mining property.

* * * * *

(c) * * *

(1)(i) * * * For purposes of this paragraph (c), the term ''gift'' means, except to the extent that paragraph (c)(1)(ii) of this section applies, a transfer of mining property that, in the hands of the transferee, has a basis determined under the provisions of section 1015(a) or 1015(d) (relating to basis of property acquired by gift) or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010). * * *

* * * * *

■ **Par. 23.** Section 1.617–5 is added to read as follows:

§ 1.617–5 Effective/applicability date.

Sections 1.617–3 and 1.617–4 apply on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see §§ 1.617–3 and 1.617–4 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 24.** Section 1.684–3 is amended by revising paragraph (c) to read as follows:

§ 1.684–3 Exceptions to general rule of gain recognition.

* * * * *

(c) *Certain transfers at death*—(1) *Section 1014 basis.* The general rule of gain recognition under § 1.684–1 shall not apply to any transfer of property to a foreign trust or foreign estate or, in the case of a transfer of property by a U.S. transferor decedent dying in 2010, to a foreign trust, foreign estate, or a nonresident alien, by reason of death of the U.S. transferor, if the basis of the property in the hands of the transferee is determined under section 1014(a).

(2) *Section 1022 basis election.* For U.S. transferor decedents dying in 2010, the general rule of gain recognition under § 1.684–1 shall apply to any transfer of property by reason of death of the U.S. transferor if the basis of the property in the hands of the foreign trust, foreign estate, or the nonresident alien individual is determined under section 1022. The gain on the transfer shall be calculated as set out under § 1.684–1(a), except that adjusted basis will reflect any increases allocated to such property under section 1022.

* * * * *

■ **Par. 25.** Section 1.684–5 is revised to read as follows:

§ 1.684–5 Effective/applicability dates.

(a) Sections 1.684–1 through 1.684–4 apply to transfers of property to foreign trusts and foreign estates after August 7, 2000, except as provided in paragraph (b) of this section.

(b) In the case a U.S. transferor decedent dying in 2010, § 1.684–3(c) applies to transfers of property to foreign trusts, foreign estates, and

nonresident aliens after December 31, 2009, and before January 1, 2011.

■ **Par. 26.** Section 1.691(a)–3 is amended by revising the last two sentences of paragraph (a) and adding paragraph (c) to read as follows:

§ 1.691(a)–3 Character of gross income.

(a) * * * The provisions of section 1014(a), relating to the basis of property acquired from a decedent, and section 1022, relating to the basis of property acquired from certain decedents who died in 2010, do not apply to these amounts in the hands of the estate and such persons. See sections 1014(c) and 1022(f).

* * * * *

(c) *Effective/applicability dates.* The last two sentences of paragraph (a) of this section apply on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.691(a)–3 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 27.** Section 1.742–1 is revised to read as follows:

§ 1.742–1 Basis of transferee partner's interest.

(a) *In general.* The basis to a transferee partner of an interest in a partnership shall be determined under the general basis rules for property provided by part II (section 1011 and following), Subchapter O, Chapter 1 of the Internal Revenue Code. Thus, the basis of a purchased interest will be its cost. Generally, the basis of a partnership interest acquired from a decedent is the fair market value of the interest at the date of his death or at the alternate valuation date, increased by his estate's or other successor's share of partnership liabilities, if any, on that date, and reduced to the extent that such value is attributable to items constituting income in respect of a decedent (see section 753 and §§ 1.706–1(c)(3)(v) and 1.753–1(b)) under section 691. See section 1014(c). However, the basis of a partnership interest acquired from a decedent is determined under section 1022 if the decedent died in 2010 and the decedent's executor elected to have section 1022 apply to the decedent's estate. For basis of contributing partner's interest, see section 722. The basis so determined is then subject to the adjustments provided in section 705.

(b) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.742–1 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 28.** Section 1.743–1 is amended by revising paragraphs (k)(2)(ii) and (l) to read as follows:

§ 1.743–1 Optional adjustment to basis of partnership property.

* * * * *

(k) * * *

(2) * * *

(ii) *Special rule.* A transferee that acquires, on the death of a partner, an interest in a partnership with an election under section 754 in effect for the taxable year of the transfer, must notify the partnership, in writing, within one year of the death of the deceased partner. The written notice to the partnership must be signed under penalties of perjury and must include the names and addresses of the deceased partner and the transferee, the taxpayer identification numbers of the deceased partner and the transferee, the relationship (if any) between the transferee and the transferor, the deceased partner's date of death, the date on which the transferee became the owner of the partnership interest, the fair market value of the partnership interest on the applicable date of valuation set forth in section 1014 or section 1022, the manner in which the fair market value of the partnership interest was determined, and the carryover basis as adjusted under section 1022 (if applicable).

* * * * *

(l) *Effective/applicability date.* The provisions in this section apply to transfers of partnership interests that occur on or after December 15, 1999. The provisions of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 29.** Section 1.755–1 is amended by:

■ a. Revising paragraphs (a)(4)(i)(C) and the first sentence of (b)(4)(i).

■ b. Revising the heading of paragraph (e) and paragraph (e)(2).

The revisions read as follows:

§ 1.755–1 Rules for allocation of basis.

(a) * * *

(4) * * *

(i) * * *

(C) *Income in respect of a decedent.* Solely for the purpose of determining partnership gross value under this paragraph (a)(4)(i), where a partnership interest is transferred as a result of the death of a partner, the transferee's basis in its partnership interest is determined without regard to section 1014(c) or section 1022(f), and is deemed to be adjusted for that portion of the interest, if any, that is attributable to items representing income in respect of a decedent under section 691.

* * * * *

(b) * * *

(4) * * *

(i) * * * Where a partnership interest is transferred as a result of the death of a partner, under section 1014(c) or section 1022(f), the transferee's basis in its partnership interest is not adjusted for that portion of the interest, if any, that is attributable to items representing income in respect of a decedent under section 691. * * *

* * * * *

(e) *Effective/applicability dates.* * * *

(2) *Special rules.* Paragraphs (a) and (b)(3)(iii) of this section apply to transfers of partnership interests and distributions of property from a partnership that occur on or after June 9, 2003. The provisions of paragraphs (a)(4)(i)(C) and (b)(4)(i) of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 30.** Section 1.995–4 is amended by revising the first sentence of paragraph (d)(2) and adding paragraph (f) to read as follows:

§ 1.995–4 Gain on disposition of stock in a DISC.

* * * * *

(d) * * *

(2) * * * For purposes of this section, the period during which a shareholder has held stock includes the period he is considered to have held it by reason of the application of section 1223 and, if his basis is determined in whole or in part under the provisions of section 1014(d) (relating to special rule for DISC stock acquired from decedent) or section 1022 (relating to property acquired from certain decedents who died in 2010), the holding period of the decedent.

* * *

* * * * *

(f) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.995–4 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 31.** Section 1.1001–1 is amended by revising the last sentence of paragraph (a), revising paragraph (f)(1), and adding paragraph (f)(5) to read as follows:

§ 1.1001–1 Computation of gain or loss.

(a) * * * Section 1001(e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent), section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010).

* * * * *

(f) * * *

(1) *General rule.* Except as otherwise provided in paragraph (f)(3) of this section, for purposes of determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in paragraph (f)(2) of this section), a taxpayer shall not take into account that portion of the adjusted basis of such interest that is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent), section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010) to the extent that such adjusted basis is a portion of the adjusted uniform basis of the entire property (as defined in § 1.1014–5). Where a term interest in property is transferred to a corporation in connection with a transaction to which section 351 applies and the adjusted basis of the term interest:

(i) Is determined pursuant to sections 1014, 1015, or 1022; and

(ii) Is also a portion of the adjusted uniform basis of the entire property, a subsequent sale or other disposition of such term interest by the corporation will be subject to the provisions of section 1001(e) and this paragraph (f) to the extent that the basis of the term interest so sold or otherwise disposed of is determined by reference to its basis in the hands of the transferor as provided by section 362(a). See paragraph (f)(2) of this section for rules relating to the characterization of stock received by the transferor of a term interest in property in connection with a transaction to which section 351 applies. That portion of the adjusted uniform basis of the entire property that is assignable to such interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014–5. Thus, gain or loss realized from a sale or other disposition of a term interest in property shall be determined by comparing the amount of the proceeds of such sale with that part of the adjusted basis of such interest that is not a portion of the adjusted uniform basis of the entire property.

* * * * *

(5) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1001–1 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

* * * * *

■ **Par. 32.** Section 1.1014–1 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 1.1014–1 Basis of property acquired from a decedent.

(a) *General rule.* The purpose of section 1014 is, in general, to provide a basis for property acquired from a decedent that is equal to the value placed upon such property for purposes of the Federal estate tax. Accordingly, the general rule is that the basis of property acquired from a decedent is the fair market value of such property at the date of the decedent's death, or, if the decedent's executor so elects, at the alternate valuation date prescribed in section 2032, or in section 811(j) of the Internal Revenue Code (Code) of 1939. However, the basis of property acquired from certain decedents who died in 2010 is determined under section 1022, if the decedent's executor made an election under section 301(c) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111–312 (124 Stat. 3296, 3300 (2010)). See section 1022. Property acquired from a decedent includes, principally, property acquired by bequest, devise, or inheritance, and, in the case of decedents dying after December 31, 1953, property required to be included in determining the value of the decedent's gross estate under any provision of the Code of 1954 or the Code of 1939. The general rule governing basis of property acquired from a decedent, as well as other rules prescribed elsewhere in this section, shall have no application if the property is sold, exchanged, or otherwise disposed of before the decedent's death by the person who acquired the property from the decedent. For general rules on the applicable valuation date where the executor of a decedent's estate elects under section 2032, or under section 811(j) of the Code of 1939, to value the decedent's gross estate at the alternate valuation date prescribed in such sections, see § 1.1014–3(e).

* * * * *

(d) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1014–1 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 33.** Section 1.1014–4 is amended by revising the first sentence of paragraph (a)(1), revising the second sentence of paragraph (a)(2), and adding paragraph (d) to read as follows:

§ 1.1014–4 Uniformity of basis; adjustment to basis.

(a) * * *

(1) The basis of property acquired from a decedent, as determined under section 1014(a) or section 1022, is uniform in the hands of every person having possession or enjoyment of the property at any time under the will or other instrument or under the laws of descent and distribution. * * *

(2) * * * Accordingly, there is a common acquisition date for all titles to property acquired from a decedent within the meaning of section 1014 or section 1022, and, for this reason, a common or uniform basis for all such interests. * * *

* * * * *

(d) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1014–4 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 34.** Section 1.1014–5 is amended by revising paragraph (b), adding and reserving paragraph (d), and adding paragraph (e) to read as follows:

§ 1.1014–5 Gain or loss.

* * * * *

(b) *Sale or other disposition of certain term interests.* In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in § 1.1001–1(f)(2)) the adjusted basis of which is

determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent), section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010), that part of the adjusted uniform basis assignable under the rules of paragraph (a) of this section to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and § 1.1001–1(f).

* * * * *

(d) [Reserved]

(e) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1014–5 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 35.** Section 1.1223–1 is amended by adding a sentence to the end of paragraph (b) and adding paragraph (l) to read as follows:

§ 1.1223–1 Determination of period for which capital assets are held.

* * * * *

(b) * * * Similarly, the period for which property acquired from a decedent who died in 2010 was held by the decedent must be included in determining the period during which the property was held by the recipient, if the recipient's basis in the property is determined under section 1022.

* * * * *

(l) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1223–1 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 36.** Section 1.1245–2 is amended by revising paragraph (c)(2)(ii) and adding paragraph (d) to read as follows:

§ 1.1245–2 Definition of recomputed basis.

* * * * *

(c) * * *

(2) * * *

(ii) The transactions referred to in paragraph (c)(2)(i) of this section are:

(*a*) A disposition that is in part a sale or exchange and in part a gift (see § 1.1245–4(a)(3));

(*b*) A disposition (other than a disposition to which section 1245(b)(6)(A) applies) that is described in section 1245(b)(3) (relating to certain tax-free transactions);

(*c*) An exchange described in § 1.1245–4(e)(2) (relating to transfers described in section 1081(d)(1)(A)); or

(*d*) A transfer at death where the basis of property in the hands of the transferee is determined under section 1022.

* * * * *

(d) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1245–2 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 37.** Section 1.1245–3 is amended by revising paragraph (a)(3) and adding paragraph (d) to read as follows:

§ 1.1245–3 Definition of section 1245 property.

(a) * * *

(3) Even though property may not be of a character subject to the allowance for depreciation in the hands of the taxpayer, such property may nevertheless be section 1245 property if the taxpayer's basis for the property is determined by reference to its basis in the hands of a prior owner of the property and such property was of a character subject to the allowance for depreciation in the hands of such prior owner, or if the taxpayer's basis for the property is determined by reference to the basis of other property that in the hands of the taxpayer was property of a character subject to the allowance for depreciation, or if the taxpayer's basis for the property is determined under section 1022 and such property was of a character subject to the allowance for depreciation in the hands of the decedent. Thus, for example, if a father uses an automobile in his trade or business during a period after December 31, 1961, and then gives the automobile to his son as a gift for the son's personal use, the automobile is section 1245 property in the hands of the son.

* * * * *

(d) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1245–3 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 38.** Section 1.1245–4 is amended by revising the second sentence of paragraph (a)(1) and adding paragraph (i) to read as follows:

§ 1.1245–4 Exceptions and Limitations.

(a) * * *

(1) * * * For purposes of this paragraph (a), the term ''gift'' means, except to the extent that paragraph (a)(3) of this section applies, a transfer of property that, in the hands of the transferee, has a basis determined under the provisions of section 1015(a) or 1015(d) (relating to basis of property acquired by gifts) or section 1022 (relating to basis of property acquired from certain decedents who died in 2010). * * *

* * * * *

(i) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1245–4 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 39.** Section 1.1250–4 is amended by adding paragraphs (c)(5) and (h) to read as follows:

§ 1.1250–4 Holding period.

* * * * *

(c) * * *

(5) A transfer at death where the basis of the property in the hands of the transferee is determined under section 1022.

* * * * *

(h) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1250–4 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

■ **Par. 40.** Section 1.1254–2 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 1.1254–2 Exceptions and limitations.

(a) * * *

(1) * * * For purposes of this paragraph (a), the term ''gift'' means, except to the extent that paragraph (a)(2) of this section applies, a transfer of natural resource recapture property that, in the hands of the transferee, has a basis determined under the provisions

of section 1015(a) or 1015(d) (relating to basis of property acquired by gift) or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010). * * *

* * * * *

■ **Par. 41.** Section 1.1254–3 is amended by revising paragraphs (b)(2)(ii) and (iii) and adding paragraph (b)(2)(iv) to read as follows:

§ 1.1254–3 Section 1254 costs immediately after certain acquisitions.

* * * * *

(b) * * *

(2) * * *

(ii) A transaction described in section 1041(a);

(iii) A disposition described in § 1.1254–2(c)(3) (relating to certain tax-free transactions); or

(iv) A transfer at death where basis of property in the hands of the transferee is determined under section 1022.

* * * * *

■ **Par. 42.** Section 1.1254–4 is amended by revising paragraph (e)(4) introductory text to read as follows:

§ 1.1254–4 Special rules for S corporations and their shareholders.

* * * * *

(e) * * *

(4) * * * If stock is acquired in a transfer that is a gift, in a transfer that is a part sale or exchange and part gift, in a transfer that is described in section 1041(a), or in a transfer at death where the basis of property in the hands of the transferee is determined under section 1022, the amount of section 1254 costs with respect to the property held by the corporation in the acquiring shareholder's hands immediately after the transfer is an amount equal to—

* * * * *

■ **Par.43.** Section 1.1254–5 is amended by revising paragraph (c)(2)(iv) introductory text to read as follows:

§ 1.1254–5 Special rules for partnerships and their partners.

* * * * *

(c) * * *

(2) * * *

(iv) * * * If an interest in a partnership is transferred in a transfer that is a gift, in a transfer that is a part sale or exchange and part gift, in a transfer that is described in section 1041(a), or in a transfer at death where the basis of property in the hands of the transferee is determined under section 1022, the amount of the transferee partner's section 1254 costs with respect to property held by the partnership immediately after the transfer is an amount equal to—

* * * * *

■ **Par. 44.** Section 1.1254–6 is revised to read as follows:

§ 1.1254–6 Effective/applicability date.

(a) Sections 1.1254–1 through 1.1254–3 and 1.1254–5 are effective with respect to any disposition of natural resource recapture property occurring after March 13, 1995. The rule in § 1.1254–1(b)(2)(iv)(A)(*2*), relating to a nonoperating mineral interest carved out of an operating mineral interest with respect to which an expenditure has been deducted, is effective with respect to any disposition occurring after March 13, 1995, of property (within the meaning of section 614) that is placed in service by the taxpayer after December 31, 1986. Section 1.1254–4 applies to dispositions of natural resource recapture property by an S corporation (and a corporation that was formerly an S corporation) and dispositions of S corporation stock occurring on or after October 10, 1996. Sections 1.1254–2(d)(1)(ii), 1.1254–3(b)(1)(i), (b)(1)(ii), (d)(1)(i), and (d)(1)(ii) are effective for dispositions of property occurring on or after October 10, 1996.

(b) The provisions of §§ 1.1254–2(a)(1), 1.1254–3(b)(2), 1.1254–4(e)(4), and 1.1254–5(c)(2)(iv) that relate to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 45.** Section 1.1296–1 is amended by revising paragraphs (d)(4) and (j) to read as follows:

§ 1.1296–1 Mark to market election for marketable stock.

* * * * *

(d) * * *

(4) *Stock acquired from a decedent.* In the case of stock of a PFIC that is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which a section 1296 election was in effect as of the date of the decedent's death, notwithstanding section 1014 or section 1022, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis that would have been determined under section 1014 or section 1022 without regard to this paragraph (d)).

* * * * *

(j) *Effective/applicability date.* The provisions in this section are applicable for taxable years beginning on or after May 3, 2004. The provisions of paragraph (d)(4) of this section relating to section 1022 are effective on and after the date these regulations are published as final regulations in the **Federal Register**.

■ **Par. 46.** Section 1.1312–7 is amended by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 1.1312–7 Basis of property after erroneous treatment of a prior transaction.

* * * * *

(b)(1) For this section to apply, the taxpayer with respect to whom the erroneous treatment occurred must be:

(i) The taxpayer with respect to whom the determination is made; or

(ii) A taxpayer who acquired title to the property in the erroneously treated transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title in such a manner that he will have a basis ascertained by reference to the basis in the hands of the taxpayer who acquired title to the property in the erroneously treated transaction; or

(iii) A taxpayer who had title to the property at the time of the erroneously treated transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title, if the basis of the property in the hands of the taxpayer with respect to whom the determination is made is determined under section 1015(a) (relating to the basis of property acquired by gift) or section 1022 (relating to the basis of property acquired from certain decedents who died in 2010). (2) No adjustment is authorized with respect to the transferor of the property in a transaction upon which the basis of the property depends, when the determination is with respect to the original transferee or a subsequent transferee of the original transferee.

* * * * *

(d) *Effective/applicability date.* This section applies on and after the date these regulations are published as final regulations in the **Federal Register**. For rules before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1312–7 as contained in 26 CFR (revised as of the April 1 preceding the date these regulations are published as final regulations in the **Federal Register**).

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–11210 Filed 5–8–15; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 7, 11, 23, 25, and 52

[FAR Case 2014–026; Docket No. 2014–0026; Sequence No. 1]

RIN 9000–AM87

Federal Acquisition Regulation; High Global Warming Potential Hydrofluorocarbons

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive branch policy in the President's Climate Action Plan to procure, when feasible, alternatives to high global warming potential (GWP) hydrofluorocarbons (HFCs). This will allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements of the Executive Order (E.O.) 13693 of March 25, 2015, Planning for Sustainability in the Next Decade. E.O. 13693 subsumes both E.O. 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management as well as E.O. 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before July 10, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2014–026 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2014–026''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2014–026.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2014–026'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–026, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, at 703–795–6328, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2014–026.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement Executive branch policy in the President's Climate Action Plan to procure, when feasible, alternatives to high GWP HFCs and allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements formerly required by Executive Order (E.O.) 13514, and now required by E.O. 13693, Planning for Federal Sustainability in the Next Decade.

President Obama issued his Climate Action Plan (CAP), dated June 2013, that includes a broad set of steps designed to slow the effects of climate change, see *http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.* Among the many actions called for, the CAP outlined a set of measures to address HFCs, potent greenhouse gases primarily used in refrigeration and air conditioning, see section IV. The CAP states that ''emissions of HFCs are expected to nearly triple by 2030, and double from current levels of 1.5 percent of greenhouse gas emissions to 3 percent by 2020''. For example, the atmospheric concentration of HFC–134a, the most abundant HFC, has increased by about 10 percent per year from 2006 to 2012, and the concentrations of HFC–143a and HFC–125 have risen over 13 percent and 16 percent per year from 2007–2011, respectively.

In order to address high GWP HFCs, the President directed Federal agencies to lead through both international diplomacy and domestic action. In particular, he directed the U.S. Environmental Protection Agency (EPA) to use its authority through the Significant New Alternatives Policy (SNAP) Program to encourage private sector investment in low-emissions technology by identifying and approving climate-friendly chemicals while prohibiting certain uses of the most climate-harmful chemical alternatives. In addition, the CAP noted ''the President has directed his Administration to purchase cleaner alternatives to HFCs whenever feasible and transition over time to equipment that uses safer and more sustainable alternatives''. There are lower GWP alternatives available now for certain applications, and likely more will become available within the next 5 years to replace the higher GWP HFCs that contribute to climate change. Agencies are already reporting emissions of greenhouse gases, including HFCs, as formerly required by E.O. 13514. In order to understand and track the Government's progress to reduce HFC emissions, improved reporting of current HFC usage is necessary to baseline efforts.

II. Discussion and Analysis

A. Policy and Procedures

Accordingly, DoD, GSA, and NASA are proposing to amend FAR subpart 23.8 to include—

(1) A policy statement at FAR 23.802 reflecting the Government's commitment to minimize the procurement and the potential use, release, or emission of high GWP HFCs that contribute to climate change; and

(2) Procedures at FAR 23.803 that address substitution of lower GWP alternatives where feasible, and referring to EPA's SNAP program to identify acceptable alternatives.

B. Clauses

The proposed rule includes contract clauses, prescribed at FAR 23.804, that—

- Give direction to contractors to take steps in furtherance of this policy (including, when feasible, reducing the amount of HFC emissions and substituting lower GWP alternatives as part of the normal equipment maintenance and replacement process); and
- Require limited contractor reporting (*i.e.,* the amount in pounds of HFCs or refrigerant blends containing HFCs in the equipment and appliances delivered to the Government and the amount in pounds of HFCs or refrigerant blends containing HFCs added or taken out of equipment or appliances during maintenance, service, repair, or disposal, which contractors may track as part of billing the Government), so that the Government can track progress and impact of products (equipment and appliances) procured and delivered

with HFCs or refrigerant blends containing HFCs. Reporting is limited to equipment and appliances that normally contain 50 or more pounds of HFCs or refrigerant blends containing HFCs. At these levels of refrigerant use, considering the associated cost, contractors are likely to already have access to quantity of HFC and refrigerant blends containing HFCs used due to cost.

This rule proposes to modify the existing FAR clauses at 52.223–11, Ozone-Depleting Substances, and 52.223–12, Refrigeration Equipment and Air Conditioners, to address high GWP HFCs, as well as ozone-depleting substances. In addition, the rule proposes to add two new clauses specifically focused on use of alternatives, where feasible, in place of high GWP HFCs in aerosol cans (as propellants or solvents) and as foam blowing agents.

C. Definitions

The rule proposes to amend FAR part 2 by adding the new definitions of ''global warming potential,'' ''hydrofluorocarbons'', and ''high global warming potential hydrofluorocarbons''. The rule also adds in FAR part 2 a definition of ''manufactured end product'' (currently defined in the FAR clause 52.225–18), with update to the current terminology for product and service code/group, rather, than Federal supply class/group.

D. Applicability

This proposed rule will apply to all acquisitions inside the United States and its outlying areas of products or services containing or using high GWP HFCs, including—

- Commercial items that use part 12 procedures; and
- Acquisitions that do not exceed the simplified acquisition threshold.

The reporting requirement applies only for delivery of, or maintenance, service, repair and disposal of, equipment or appliances normally containing 50 pounds or more of HFCs or refrigerant blends containing HFCs.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

This rule is necessary to implement Executive branch policy stated in the President's Climate Action Plan.

The objective of this rule is to require Federal agencies to procure climate-friendly alternatives to high global warming potential (GWP) hydrofluorocarbons (HFCs) and allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements formerly required by Executive Order (E.O.) 13514, and now required by E.O. 13693, Planning for Federal Sustainability in the Next Decade.

Based on FPDS data for FY 2013, this rule will apply to approximately 1,680 small business contractors that provide supplies (including equipment and appliances) to the Federal Government and about 640 small business contractors that provide maintenance, service, repair, or disposal of refrigeration equipment or air conditioners. In addition, although the proposed clauses at 252.223–XX, Aerosols, and 52.223–YY, Foams, do not contain any reporting requirements, these clauses also apply respectively to solicitations and contracts that involve repair or maintenance of electronic or mechanical devices and construction of buildings and facilities.

We estimate an average reporting burden of about 8 hours per year for each of the small businesses providing supplies containing high GWP HFCs or maintenance, service, repair, or disposal of refrigeration equipment or air conditioners.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

We did not identify any significant alternatives to the rule that would accomplish the stated objectives of the President's Climate Action Plan and the Executive Order.

It is necessary for the rule to apply to small entities, because about three-quarters of the affected contractors are small businesses. Every effort has been made to minimize the burdens imposed.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2014–026), in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat has submitted a request for approval of a new information collection requirement concerning GWP HFCs to the Office of Management and Budget.

A. Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden estimated as follows:

Respondents: 3,172.

Responses per respondent: 1.

Total annual responses: 3,172.

Preparation hours per response: 8 hours.

Total response Burden Hours: 25,376.

B. Request for Comments Regarding Paperwork Burden.

Submit comments, including suggestions for reducing this burden, not later than July 10, 2015 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory

Secretariat (MVCB), ATTN: Hada Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. Please cite OMB Control Number 9000–0191, High Global Warming Potential Hydrofluorocarbons, in all correspondence.

List of Subjects in 48 CFR Parts 1, 2, 7, 11, 23, 25, and 52

Government procurement.

Dated: May 5, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 2, 7, 11, 23, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 7, 11, 23, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by adding in numerical sequence, FAR segments ''52.223–11'' and ''52.223–12'' and their corresponding OMB Control Number ''9000–0191''.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101, in paragraph (b)(2) by adding, in alphabetical order, the definitions ''Global warming potential'', ''High global warming potential hydrofluorocarbons'', ''Hydrofluorocarbons'', ''Manufactured end product'', and ''Products'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Global warming potential means a measure of the total energy that a gas absorbs over a particular period of time (usually 100 years), compared to carbon dioxide.

* * * * *

High global warming potential hydrofluorocarbons means any hydrofluorocarbons for which EPA's Significant New Alternatives Policy (SNAP) program (40 CFR part 82 Subpart G) identifies acceptable lower global warming potential alternatives with supplemental tables of alternatives available at (*http://www.epa.gov/ozone/snap/*).

* * * * *

Hydrofluorocarbons means compounds that contain only hydrogen, fluorine, and carbon.

* * * * *

Manufactured end product means any end product in product and service codes (PSC) 1000–9999, except—

(1) PSC 5510, Lumber and Related Basic Wood Materials;

(2) Product or service group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

(5) PSC 9410, Crude Grades of Plant Materials;

(6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

* * * * *

Products has the same meaning as supplies.

* * * * *

PART 7—ACQUISITION PLANNING

■ 4. Amend section 7.103 by revising paragraph (p)(2) to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(p) * * *

(2) Comply with the policy in 11.002(d) regarding procurement of: Biobased products, products containing recovered materials, environmentally preferable products and services (including Electronic Product Environmental Assessment Tool (EPEAT®)-registered electronic products, nontoxic or low-toxic alternatives), ENERGY STAR® and Federal Energy Management Program-designated products, renewable energy, water-efficient products, non-ozone-depleting products, and products and services that minimize or eliminate, when feasible, the use, release, or emission of high global warming potential hydrofluorocarbons;

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

■ 5. Amend section 11.002 by revising paragraph (d)(1)(vi) to read as follows:

11.002 Policy.

* * * * *

(d)(1) * * *

(vi) Non-ozone-depleting substances; and products and services that minimize or eliminate, when feasible, the use, release, or emission of high global warming potential hydrofluorocarbons (subpart 23.8).

* * * * *

PART 23—APPLICATION OF LABOR LAWS TO GOVERNMENT

■ 6. Amend section 23.000 by revising paragraph (d) to read as follows:

23.000 Scope.

* * * * *

(d) Acquiring energy-efficient and water-efficient products and services, environmentally preferable (including EPEAT®-registered, and non-toxic and less toxic) products, products containing recovered materials, biobased products, non-ozone-depleting products, and products and services that minimize or eliminate, when feasible, the use, release, or emission of high global warming potential hydrofluorocarbons;

* * * * *

■ 7. Revise subpart 23.8 to read as follows:

Subpart 23.8—Ozone-Depleting Substances and Hydrofluorocarbons

Sec.

23.800 Scope of subpart.
23.801 Authorities.
23.802 Policy.
23.803 Procedures.
23.804 Contract clauses.

Subpart 23.8—Ozone-Depleting Substances and Hydrofluorocarbons

23.800 Scope of subpart.

This subpart sets forth policies and procedures for the acquisition of items that—

(a) Contain, use, or are manufactured with ozone-depleting substances; or

(b) Contain or use high global warming potential hydrofluorocarbons.

23.801 Authorities.

(a) Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*).

(b) Section 706 of Division D, title VII of the Omnibus Appropriations Act, 2009 (Pub. L. 111–8).

(c) Executive Order 13693 of March 25, 2015, Planning for Federal Sustainability in the Next Decade.

(d) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR part 82).

23.802 Policy.

It is the policy of the Federal Government that Federal agencies—

(a) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone and/or result in the use, release or

emission of high global warming potential hydrofluorocarbons; and

(b) Give preference to the procurement of acceptable alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by minimizing—

(1) The depletion of ozone in the upper atmosphere; and

(2) The potential use, release, or emission of high global warming potential hydrofluorocarbons.

23.803 Procedures.

In preparing specifications and purchase descriptions, and in the acquisition of products and services, agencies shall—

(a) Comply with the requirements of title VI of the Clean Air Act, section 706 of division D, title VII of Pub. L. 111–8, Executive Order 13693, and 40 CFR 82.84(a)(2), (3), (4), and (5);

(b) Substitute acceptable alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(n);

(c) Specify, when feasible, that contractors shall substitute acceptable lower global warming potential alternatives for high global warming potential hydrofluorocarbons in products and services; and

(d) Refer to EPA's Significant New Alternatives Policy (SNAP) program (available at *http://www.epa.gov/ozone/snap*) to identify acceptable alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons.

23.804 Contract clauses.

Except for contracts that will be performed outside the United States and its outlying areas, insert the following clauses:

(a) 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons, in solicitations and contracts for—

(1) Refrigeration equipment (in product or service code (PSC) 4110);

(2) Air conditioning equipment (PSC 4120);

(3) Clean agent fire suppression systems/equipment (*e.g.,* installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);

(4) Bulk refrigerants and fire suppressants (in PSC 6830);

(5) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850);

(6) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030);

(7) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and

(8) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

(b) 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of—

(1) Refrigeration equipment, such as refrigerators, chillers, or freezers; or

(2) Air conditioners, including air conditioning systems in motor vehicles.

(c) 52.223–XX, Aerosols, in solicitations and contracts—

(1) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or

(2) That involve maintenance or repair of electronic or mechanical devices.

(d) 52.223–YY, Foams, in solicitations and contracts for—

(1) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or

(2) Construction of buildings or facilities.

PART 25—FOREIGN ACQUISITION

25.1101 [Amended]

■ 8. Amend section 25.1101 by removing from paragraph (f) '', as defined in the provision at 52.225–18''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 9. Amend section 52.212–5 by—
■ a. Revising the date of the clause;
■ b. Redesignating paragraphs (b)(35) through (b)(53) as paragraphs (b)(39) through (b)(57), respectively; and
■ c. Adding new paragraphs (b)(35) through (b)(38) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)

* * * * *

(b) * * *

_____(35) 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Date) (E.O. 13693).

_____(36) 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Date) (E.O. 13693).

_____(37) 52.223–XX, Aerosols (Date) (E.O. 13693).

_____(38) 52.223–YY, Foams (Date) (E.O. 13693).

* * * * *

■ 10. Amend section 52.213–4 by—
■ a. Revising the date of the clause; and
■ b. Redesignating paragraphs (b)(1)(ix) through (b)(1)(xvi) as paragraphs (b)(1)(xiii) through (b)(1)(xx), respectively; and
■ c. Adding new paragraphs (b)(1)(ix) through (b)(1)(xii) to read as follows:

52.213–4 Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Date)

* * * * *

(b) * * *

(1) * * *

(ix) 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Date) (E.O. 13693) (applies to contracts for products as prescribed at FAR 23.804(a)).

(x) 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Date) (E.O. 13693) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).

(xi) 52.223–XX, Aerosols (Date) (E.O. 13693) (Applies to products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or maintenance or repair of electronic or mechanical devices).

(xii) 52.223–YY, Foams (Date) (E.O. 13693) (Applies to products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or construction of buildings or facilities.

* * * * *

■ 11. Revise section 52.223–11 to read as follow:

52.223–11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons.

As prescribed in 23.804(a), insert the following clause:

Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Date)

(a) Definitions.

As used in this clause—

Global warming potential means a measure of the total energy that a gas absorbs over a particular period of time (usually 100 years), compared to carbon dioxide.

High global warming potential hydrofluorocarbons means any hydrofluorocarbons for which EPA's Significant New Alternatives Policy (SNAP) program (40 CFR Part 82 Subpart G) identifies acceptable lower global warming potential alternatives with supplemental tables of alternatives available at (*http://www.epa.gov/ozone/snap/*).

Hydrofluorocarbons means compounds that only contain hydrogen, fluorine, and carbon.

Ozone-depleting substance means any substance the Environmental Protection Agency designates in 40 CFR part 82 as—

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), (d), and (e) and 40 CFR part 82, subpart E, as follows:

Warning

Contains (or manufactured with, if applicable) *_____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

* The Contractor shall insert the name of the substance(s).

(c) *Reporting.* For equipment and appliances that normally each contain 50 or more pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons, the Contractor shall—

(1) Track on an annual basis, between October 1 and September 30, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons contained in the equipment and appliances delivered to the Government under this contract by—

(i) Type of hydrofluorocarbon (*e.g.,* HFC–134a, HFC–125, R–410A, R–404A, etc.);

(ii) Product or service code;

(iii) Equipment/appliance;

(iv) Contract number;

(v) Agency; and

(vi) Delivery location of equipment/appliance.

(2) Report that information to *www.sam.gov*—

(i) Annually by October 31 during each year during contract performance; and

(ii) At the end of contract performance.

(d) Refer to EPA's Significant New Alternatives Policy (SNAP) program (available at *http://www.epa.gov/ozone/snap*) to identify acceptable alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons.

(End of clause)

■ 12. Revise section 52.223–12 to read as follows:

52.223–12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.

As prescribed in 23.804(b), insert the following clause:

Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Date)

(a) *Definitions.*

As used in this clause—

Global warming potential means a measure of the total energy that a gas absorbs over a particular period of time (usually 100 years), compared to carbon dioxide.

High global warming potential hydrofluorocarbons means any hydrofluorocarbons for which EPA's Significant New Alternatives Policy (SNAP) program (40 CFR Part 82 Subpart G) identifies acceptable lower global warming potential alternatives with supplemental tables of alternatives available at (*http://www.epa.gov/ozone/snap/*).

Hydrofluorocarbons means compounds that contain only hydrogen, fluorine, and carbon.

(b) The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(c) Unless otherwise specified in the contract, the Contractor shall reduce the use, release, or emissions of high global warming potential hydrofluorocarbons under this contract by—

(1) Transitioning over time from high global warming potential hydrofluorocarbons to acceptable alternatives;

(2) Preventing and repairing refrigerant leaks through service and maintenance during contract performance; and

(3) Implementing recovery, recycling, and responsible disposal programs that avoid release or emissions during equipment service and as the equipment reaches the end of its useful life.

(d) The Contractor shall—

(1) Track on an annual basis, between October 1 and September 30, by type of hydrofluorocarbon (*e.g.,* HFC–134a, HFC–125, R–410A, R–404A, etc.), equipment/appliance, contract number, agency, and location of equipment/appliance, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons added or taken out of equipment or appliances under this contract that—

(i) Normally each contain 50 or more pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons; and

(ii) Will be maintained, serviced, repaired, or disposed under this contract; and

(2) Report that information to *www.sam.gov*—

(i) No later than October 31 of each year during contract performance; and

(ii) At the end of contract performance.

(e) The Contractor shall refer to EPA's Significant New Alternatives Policy (SNAP) program (available at *http://www.epa.gov/ozone/snap*) to identify acceptable alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons that consider the overall risks to human health and the environment.

(End of clause)

■ 13. Add section 52.223–XX to read as follows:

52.223–XX Aerosols.

As prescribed in 23.804(c), insert the following clause:

Aerosols (Date)

(a) *Definitions.* As used in this clause—

Global warming potential means a measure of the total energy that a gas absorbs over a particular period of time (usually 100 years), compared to carbon dioxide.

High global warming potential hydrofluorocarbons means any hydrofluorocarbons for which EPA's Significant New Alternatives Policy (SNAP) program (40 CFR Part 82 Subpart G) identifies acceptable lower global warming potential alternatives with supplemental tables of alternatives (available at *http://www.epa.gov/ozone/snap/*).

Hydrofluorocarbons means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, or emissions of high global warming potential hydrofluorocarbons from aerosol propellants or solvents under this contract, by furnishing products and equipment or performing services using acceptable alternatives, when feasible.

(c) The Contractor shall refer to EPA's Significant New Alternatives Policy (SNAP) program (available at *http://www.epa.gov/ozone/snap*) to identify acceptable alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons that consider the overall risks to human health and the environment.

(End of clause)

■ 14. Add section 52.223–YY to read as follows:

52.223–YY Foams.

As prescribed in 23.804(d), insert the following clause:

Foams (Date)

(a) *Definitions.* As used in this clause—

Global warming potential means a measure of the total energy that a gas absorbs over a particular period of time (usually 100 years), compared to carbon dioxide.

High global warming potential hydrofluorocarbons means any hydrofluorocarbons for which EPA's Significant New Alternatives Policy (SNAP) program (40 CFR Part 82 Subpart G) identifies acceptable lower global warming potential alternatives with supplemental tables of alternatives available at (*http://www.epa.gov/ozone/snap/*).

Hydrofluorocarbons means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, and emissions of high global warming potential hydrofluorocarbons and refrigerant blends containing hydrofluorocarbons from foam blowing agents, under this contract, by furnishing

products and equipment or construction using acceptable alternatives, when feasible.

(c) The Contractor shall refer to EPA's Significant New Alternatives Policy (SNAP) program (available at *http://www.epa.gov/ozone/snap*) to identify acceptable alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons.

(End of clause)

[FR Doc. 2015–11231 Filed 5–8–15; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 80, No. 90
Monday, May 11, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Public Meeting of the Assembly of the Administrative Conference of the United States

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), the Assembly of the Administrative Conference of the United States will hold a meeting to consider two proposed recommendations and to conduct other business. This meeting will be open to the public.

DATES: The meeting will take place on Thursday, June 4, 2015, 10:00 a.m. to 5:00 p.m. The meeting may adjourn early if all business is finished.

ADDRESSES: The meeting will be held at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 (Main Conference Room).

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel (Designated Federal Officer), Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2088; email *smcgibbon@acus.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States makes recommendations to federal agencies, the President, Congress, and the Judicial Conference of the United States regarding the improvement of administrative procedures (5 U.S.C. 594). The membership of the Conference, when meeting in plenary session, constitutes the Assembly of the Conference (5 U.S.C. 595).

Agenda: The Assembly will discuss and consider two proposed recommendations as described below:

Promoting Accuracy and Transparency in the Unified Agenda. This recommendation offers suggestions for improving the accuracy and transparency of the *Unified Agenda of Federal Regulatory and Deregulatory Actions.* Among other things, it urges agencies to consider providing relevant updates between Agenda reporting periods, offers recommendations for ensuring that Agenda entries are properly categorized by projected issuance date and status, and encourages agencies to provide notice when entries are removed from the Agenda.

Issue Exhaustion in Preenforcement Judicial Review of Administrative Rulemaking. This recommendation examines judicial application of an issue exhaustion requirement in preenforcement review of administrative rulemaking. It urges courts to recognize that issue exhaustion principles developed in the context of adversarial agency adjudications may not always apply in the context of preenforcement review of rulemaking, but also recognizes that courts generally should not resolve issues litigants did not raise during the administrative rulemaking proceeding. It also offers guidance to the judiciary and agencies regarding when it may be appropriate to make exceptions.

Additional information about the proposed recommendations and the order of the agenda, as well as other materials related to the meeting, can be found at the 62nd Plenary Session page on the Conference's Web site: (*https://www.acus.gov/meetings-and-events/plenary-meeting/62nd-plenary-session*).

Public Participation: The Conference welcomes the attendance of the public at the meeting, subject to space limitations, and will make every effort to accommodate persons with disabilities or special needs. If you wish to attend in person, please RSVP online at the 62nd Plenary Session Web page listed above, no later than two days before the meeting, in order to facilitate entry. If you need special accommodations due to disability, please inform the Designated Federal Officer noted above at least seven days in advance of the meeting. Members of the public who attend the meeting may be permitted to speak only with the consent of the Chairman and the unanimous approval of the members of the Assembly. The public may also view the meeting through a live webcast, which will be available at: *https://new.livestream.com/ACUS/62ndPlenarySession.* In addition, the public may follow the meeting on our Twitter feed @acusgov or hashtag #62ndPlenary.

Written Comments: Persons who wish to comment on the proposed recommendations may do so by submitting a written statement either online by clicking ''Submit a Comment'' on the 62nd Plenary Session Web page listed above or by mail addressed to: June 2015 Plenary Session Comments, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036. Written submissions must be relevant to the recommendations being debated, and received no later than Wednesday, May 27, to ensure consideration by the Assembly.

Dated: May 5, 2015.

Shawne McGibbon,

General Counsel.

[FR Doc. 2015–11265 Filed 5–8–15; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Outreach

[Docket No. OSEC–15AO00EX001]

''USDA's Receipt for Service or Denial of Service Initiative''

AGENCY: Office of Advocacy and Outreach, USDA.

ACTION: Notice of public listening session.

SUMMARY: The Office of Advocacy and Outreach (OAO) will hold a public meeting entitled ''USDA's Receipt for Service Initiative'' on June 3, 2015. The purpose of this event is to promote public feedback on the implementation of the Receipt for Service or Denial of Service provisions of the 2008 Farm Bill (section 14003 of the Food, Conservation and Energy Act of 2008 (7 U.S.C. 2279–1(e)) and as amended in section 12204 of the Agricultural Act of 2014).

FOR FURTHER INFORMATION CONTACT: Mrs. Kenya Nicholas, USDA Outreach

Coordinator, USDA Office of Advocacy and Outreach, 1400 Independence Avenue SW., Room 520–A, Washington, DC 20250–0170; (202) 720–6350; Email: *kenya.nicholas@osec.usda.gov.*

SUPPLEMENTARY INFORMATION: This session encourages dialogue from the public on implementing the mandatory provision for USDA officials in USDA's Service Centers nationwide to issue Receipts for Service or Denial of Service.

DATES: The meeting will be held on June 3, 2015. Registration will start at 10 a.m. and the program will begin at 10:30 a.m. EST and conclude by noon.

ADDRESSES: U.S. Department of Agriculture, Jamie L. Whitten Building, Room 108–A, 1400 Independence Avenue SW., Washington, DC. Participants should enter the building through the Independence Avenue or Jefferson Drive entrance of the Jamie Whitten Building located between 12th and 14th Street. Valid photo identification is required for clearance by building security personnel.

Instructions for Participation: Although registration is encouraged, walk-ins will be accommodated to the extent that space permits. Registered participants will be given priority for making presentations prior to walk-ins. Anyone interested in the USDA Receipt for Service or Denial of Service Initiative is encouraged to attend the public meeting. Presentations will be limited to 10 minutes in duration. Participation via telephone is also available by calling 1 (888) 829–8676 and passcode 9157001. To register and request time for an oral statement or submit written comments, please contact Kenya Nicholas, USDA Outreach Coordinator; Email: *OASDVFR2015@osec.usda.gov;* Telephone: (202) 720–6350.

Done in Washington, DC, this 5th day of May 2015.

Carolyn C. Parker,

Director, Office of Advocacy and Outreach.

[FR Doc. 2015–11339 Filed 5–8–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet in Redding, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss the 2015 two-year extension of the Secure Rural Schools and Community Self-Determination Act and associated Title II funding.

DATES: June 17, 2015, 9:00 a.m. to 3:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at USDA Service Center, Shasta-Trinity National Forest Headquarters, 3644 Avtech Parkway, Redding, CA 96002.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Shasta-Trinity National Forest Headquarters.

FOR FURTHER INFORMATION CONTACT: Lesley Yen, Designated Federal Official by phone at 530–275–1587 or via email at *lyen@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed For Further Information.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 16, 2015 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lesley Yen, Designated Federal Official, Shasta Lake Ranger Station, 14225 Holiday Road, Redding, CA 96003; or by email to *lyen@fs.fed.us,* or via facsimile to 530–275–1512.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 5, 2015.

Terri Simon-Jackson,

Deputy Forest Supervisor.

[FR Doc. 2015–11319 Filed 5–8–15; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet in Redding, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and vote on project proposals to recommend to the Shasta-Trinity National Forest Supervisor.

DATES: August 26 & 27, 2015, 9:00 a.m. to 3:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at USDA Service Center, Shasta-Trinity National Forest Headquarters, 3644 Avtech Parkway, Redding, CA 96002.

Written comments may be submitted as described under **SUPPLEMENTARY**

INFORMATION. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Shasta-Trinity National Forest Headquarters.

FOR FURTHER INFORMATION CONTACT: Lesley Yen, Designated Federal Official by phone at 530–275–1587 or via email at *lyen@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed **FOR FURTHER INFORMATION**.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees*. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 25, 2015 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lesley Yen, Designated Federal Official, Shasta Lake Ranger Station, 14225 Holiday Road, Redding, CA 96003; or by email to *lyen@fs.fed.us,* or via facsimile to 530–275–1512.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 5, 2015.

Terri Simon-Jackon,

Deputy Forest Supervisor.

[FR Doc. 2015–11316 Filed 5–8–15; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Advisory Committees Expiration

AGENCY: United States Commission on Civil Rights.

ACTION: Solicitation of applications.

SUMMARY: Because the terms of the members of the Tennessee Advisory Committee are expiring on August 15, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Tennessee Advisory Committee, and applicants must be residents of Tennessee to be considered. Letters of interest must be received by the Southern Regional Office of the U.S. Commission on Civil Rights no later than June 15, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Maine Advisory Committee are expiring on August 15, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Maine Advisory Committee, and applicants must be residents of Maine to be considered. Letters of interest must be received by the Eastern Regional Office of the U.S. Commission on Civil Rights no later than June 15, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Rhode Island Advisory Committee are expiring on August 15, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Rhode Island Advisory Committee, and applicants must be residents of Rhode Island to be considered. Letters of interest must be received by the Eastern Regional Office of the U.S. Commission on Civil Rights no later than June 15, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the West Virginia Advisory Committee are expiring on August 15, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the West Virginia Advisory Committee, and applicants must be residents of West Virginia to be considered. Letters of interest must be received by the Eastern Regional Office of the U.S. Commission on Civil Rights no later than June 15, 2015. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the Tennessee Advisory Committee should be received no later than June 15, 2015.

Letters of interest for membership on the Maine Advisory Committee should be received no later than June 15, 2015.

Letters of interest for membership on the Rhode Island Advisory Committee should be received no later than June 15, 2015.

Letters of interest for membership on the West Virginia Advisory Committee should be received no later than June 15, 2015.

ADDRESSES: Send letters of interest for the Tennessee Advisory Committee to: U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. Letter can also be sent via email to *jhinton@usccr.gov*.

Send letters of interest for the Maine Advisory Committee to: U.S. Commission on Civil Rights, Eastern Regional Office, 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425. Letter can also be sent via email to *eroaa@usccr.gov*.

Send letters of interest for the Rhode Island Advisory Committee to: U.S. Commission on Civil Rights, Eastern Regional Office, 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425. Letter can also be sent via email to *eroaa@usccr.gov*.

Send letters of interest for the West Virginia Advisory Committee to: U.S. Commission on Civil Rights, Eastern Regional Office, 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425. Letter can also be sent via email to *eroaa@usccr.gov*.

FOR FURTHER INFORMATION CONTACT: David Mussatt, Chief, Regional Programs Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov*.

SUPPLEMENTARY INFORMATION: The Tennessee, Maine, Rhode Island, and West Virginia Advisory Committees are statutorily mandated federal advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the advisory committees, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. Advisory committees also provide assistance to the Commission in

its statutory obligation to serve as a national clearinghouse for civil rights information.

Each advisory committee consists of not more than 19 members, each of whom will serve a four-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on an advisory committee, applicants must be residents of the respective state or district, and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- study and collect information about discrimination or denials of equal protection under the law,
- appraise federal civil rights laws and policies,
- serve as a national clearinghouse on discrimination laws,
- submit reports and findings and recommendations to the President and the Congress, and
- issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the Tennessee, Maine, Rhode Island, or West Virginia Advisory Committee covered by this notice to send a letter of interest and a resume to the respective address above.

Dated: May 6, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–11320 Filed 5–8–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; School District Review Program

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, submit written comments, on or before July 10, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information or copies of the information collection instrument(s) and instructions to Laura Waggoner, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233 (or via the Internet at *laura.l.waggoner@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The mission of the Geography Division (GEO) within the Census Bureau is to plan, coordinate, and administer all geographic and cartographic activities needed to facilitate Census Bureau statistical programs throughout the United States and its territories. GEO manages programs that continuously update features, boundaries, addresses, and geographic entities in the Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System. GEO, also, conducts research into geographic concepts, methods, and standards needed to facilitate Census Bureau data collection and dissemination programs.

The Census Bureau is requesting a revision of a currently approved collection, to cover the annotation and verification phases of the 2015–2016 School District Review Program (SDRP). The Census Bureau requests a two-year clearance and a project specific Office of Management and Budget (OMB) Control Number for SDRP. GEO, in coordination with OMB, is removing select programs from the generic Geographic Partnership Programs (GPPs) clearance to individual project specific clearance packages. A project specific clearance for SDRP will allow the Census Bureau to provide enhanced detail and ensure the two-year cycle is uninterrupted.

The National Center for Education Statistics (NCES) sponsors the SDRP, which enables the Census Bureau to create special tabulations of Decennial Census data by school district geography. The demographic data produced by the Census Bureau for the NCES and related to each school district is of vital importance for each state's allocation under Title I of the Elementary and Secondary Education Act as amended by the No Child Left Behind Act of 2001. The NCES identifies a Title I Coordinator, and the Census Bureau works with the NCES on assigning a Mapping Coordinator in each state to work with the Census Bureau to implement this work. The respondents for the SDRP are the Title I Coordinators and Mapping Coordinators from the fifty states and the District of Columbia.

II. Method of Collection

The SDRP invites respondent participation in two phases of the program: Annotation and Verification. As part of the 2015–2016 SDRP Annotation phase, the Mapping Coordinator in each state will receive a variety of materials from the Census Bureau to use in their review and update of school district boundaries, names, codes and geographic relationships. The Mapping Coordinators will use the Census Bureau's MAF/TIGER Partnership Software (MTPS) and Census supplied spatial data in digital shapefile format to identify boundary changes for their school districts. As part of the Verification phase of the SDRP, Mapping Coordinators will have the opportunity to either use the MTPS with Census Bureau supplied Verification shapefiles, or the Census Crowdsourcing Tool (CCT) to review and verify that their submitted information was correctly captured by the Census Bureau. If a respondent finds cases where the Census Bureau did not incorporate their proposed submissions correctly, the respondent can tag and comment the area of issue and that information will become available to the Census Bureau for corrections.

The Census Bureau conducts the SDRP every two years under agreement from the NCES of the U.S. Department of Education (ED). The Census Bureau invites state education officials to participate in the review and update of its national inventory of school district boundaries and district information. State education officials collaborate with local superintendents on their responses. The participants review and provide updates and corrections to the elementary, secondary, and unified school district names and Federal Local Education Agency (LEA) identification numbers, school district boundaries, and the grade ranges for which a school district is financially responsible. The participants submit updated digital spatial files back to the Census Bureau.

The Census Bureau uses the updated school district information along with

the most current Census population and income data, current population estimates, and tabulations of administrative records data, to form the Census Bureau's estimates of the number of children aged five through seventeen in low-income families for each school district. These estimates of the number of children in low-income families residing within each school district are the basis of the funding allocation for each school district under Title I of the Elementary and Secondary Education Act as amended by the No Child Left Behind Act of 2001, Public Law (Pub.L.) 107–110.

III. Data

OMB Control Number: 0607–XXXX.

Form Number: Not available at this time.

Type of Review: Regular submission.

Affected Public: All fifty states and the District of Columbia.

Estimated Number of Respondents:
Annotation Phase: 51.
Verification Phase: 51.

Estimated Time per Response:
Annotation Phase: 30 hours.
Verification Phase: 10 hours.

Estimated Burden Hours:
Annotation Phase: 1,530 hours.
Verification Phase: 510 hours.

Estimated Total Burden Hours: 2040 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Census Bureau Legal Authority: Title 13 U.S.C. Section 16, 141, and 193.

NCES Legal Authority: Title I, Part A of the Elementary and Secondary Education Act.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Summarization of comments submitted in response to this notice will be included in the request for OMB approval of this information collection. Comments will also become a matter of public record.

Dated: May 5, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–11261 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[Docket No. 150421388–5388–01]

Privacy Act of 1974, New System of Records

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

ACTION: Notice of a New Privacy Act System of Records: COMMERCE/ITA–8, Salesforce Customer Relationship Management System.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, Title 5 United States Code (U.S.C.) § 552a(e)(4) and (11); and Office of Management and Budget (OMB) Circular A–130, Appendix I, Federal Agency Responsibilities for Maintaining Records About Individuals, The Department of Commerce is issuing this notice of its intent to establish a new system of records entitled ''COMMERCE/ITA–8, Salesforce Customer Relationship Management System.''

DATES: *Comment Date:* To be considered, written comments on the proposed system must be submitted on or before June 10, 2015.

Effective Date: Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: You may submit written comments to Ms. Lois V. Mockabee, International Trade Administration Privacy Act Officer, U.S. Department of Commerce, International Trade Administration, 1401 Constitution Avenue NW., Room 21023, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Lois V. Mockabee, International Trade Administration, 1401 Constitution Avenue NW., Room 21023, Washington, DC 20230. (202) 482–6111.

SUPPLEMENTARY INFORMATION: The purpose of this new information system will be to help ITA promulgate its mission by promoting and fostering international trade opportunities between small and medium-sized U.S. businesses and international trading partners. The Salesforce Relationship Management System is a Web-based software product designed to acquire, retain, and grow customer relationships by automating sales and customer support activities and providing a holistic view of the customer relationship across the organization.

COMMERCE/ITA–8

SYSTEM NAME:

COMMERCE/ITA–8, Salesforce Relationship Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Commerce, 1401 Constitution Avenue NW., Chief Information Officer, Room 48002, Washington, DC 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customer Biographical Information; Resource Provider and Local Business Assistance Organization Information; U.S. exporting companies and/or individuals involved in an ongoing exporting concern; U.S. private citizens, students and/or researchers.

CATEGORIES OF RECORDS IN THE SYSTEM:

For Customer Biographical Information Category—individual customer name, company name, personal or business email address, personal or business telephone number, personal or business fax number, personal or business mailing address, date and time of contact, customer service agent name, customer number, industry, contact type, year(s) in business, size of firm, company Web site (URL), ownership, years in exporting, countries exported to, number of employees, annual revenue, service need, customer request, service resolution, contact experience, service satisfaction, service recommendation(s)/referral(s), contact preference, and desire to be contacted to discuss survey results; and for Resource Provider and Local Business Assistance Organization Information Category—submitter name, submitter email address, resource name, resource summary description, name of resource point of contact (POC), POC title, POC email, and POC telephone; press articles; topic of contact; U.S. or non-U.S. organization; the country(ies) of interest; and log in name and password.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 1512

PURPOSES:

The purpose of this system is to assemble the necessary information to assist customers in connecting with business assistance services, programs,

data and other resources in a larger effort to help the economy by supporting small and medium sized businesses and exporters financial growth; as well as creating jobs that will help ITA in promulgating its mission by promoting and fostering international trade opportunities between small and medium sized U.S. business and international trading partners. This system serves as a controlled repository for customer data and available business resource summary information. The information obtained from the Salesforce Customer Relationship Management System (SFCRM) is used to monitor the system's performance, provide customer information to Federal agency and bureau partners, and Federal partners' sponsored organizations to further serve the customer, and to obtain customer feedback concerning their service experience and the level of satisfaction provided by SFCRM and the serving agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed as follows:

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department and Federal partners, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed to federal agency partners including: the Small Business Administration (SBA), Department of Defense (DOD), Department of Veteran Affairs (VA), U.S. Environmental Protection Agency (EPA), U.S. Housing and Urban Development (HUD), Department of Health and Human Services (HHS), General Services Administration (GSA), United States Department of Agriculture (USDA), Department of Energy (DOE), Office of Management and Budget (OMB), Department of State, Export/Import Bank, Overseas Private Investment Corporation (OPIC), Department of Transportation (DOT), Department of Treasury, Department of Justice (DOJ), National Science Foundation (NSF), U.S. Trade Development Agency (USTDA), Department of Education, Department of Labor (DOL), Department of Interior (DOI), Department of Homeland Security (DHS), and the National Aeronautical and Space Administration (NASA) in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available government business resources.

3. A record from this system of records may be disclosed to Federal partners' sponsored organizations, including Federal grantees and/or certified organizations involved in business development efforts and assistance such as: DOC's National Institute of Standards and Technology (NIST) Hollings Manufacturing Extension Partnership (MEP) Centers, DOC's NIST Manufacturing Technology Acceleration Centers (MTAC), DOC's Economic Development Administration (EDA) University Centers, DOC's Minority Business Development Agency (MBDA) Business Centers, Native American Business Enterprise Centers and Procurement Assistance Centers, DOC's International Trade Administration (ITA) Trade Promotion Coordinating Committee (TPCC), DOD's Procurement Technical Assistance Centers (PTAC), SBA's Small Business Development Centers (SBDC), Small Business and Technology Development Centers (SBTDC), Women Business Centers (WBC), Veteran Business Outreach Centers (VBOC), Service Corps of Retired Executives (SCORE), DOT's Small Business Transportation Resource Centers (SBTRC), and Treasury's Community Development Financial Institutions (CDFI), in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available business resources.

4. A record from this system of records may be disclosed to partner state governments, local governments, Non-Profit business development and assistance organizations, in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available business resources.

5. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

7. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

8. A record from this system of records may be disclosed to the Administrator, General Services Administration (GSA), or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practice and programs, under the authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.* GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

9. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

10. A record in this system of records may be disclosed, as a routine use, to appropriate agencies, entities and persons when (1) it is suspected or determined that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or whether systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On electronic digital media in encrypted format within a controlled environment, and accessed only by authorized personnel.

RETRIEVABILITY:

By individual's name, business name, or other identifier such as email address or telephone number.

SAFEGUARDS:

Maintained in areas accessible only to authorized personnel in a building protected by security guards. System is password protected and is FIPS 199 compliant. System adheres to a Moderate security rating.

RETENTION AND DISPOSAL:

All records shall be retained and disposed of in accordance with Department directives and series records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

System Administrator, addresses are the same as listed under System Location.

NOTIFICATION PROCEDURE:

An individual requesting notification of existence of records on himself or herself should send a signed, written inquiry to the U.S. Department of Commerce, International Trade Administration Privacy Act Office at 1401 Constitution Ave. NW., Room 21023, Washington, DC 20230. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonable specify the record contents being sought.

RECORD ACCESS PROCEDURES:

An individual requesting access to records on himself or herself should send a signed, written inquiry to the same address as stated in the Notification Procedure section above. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonably specify the record contents being sought.

CONTESTING RECORDS PROCEDURES:

An individual requesting correction or contesting information contained in his or her records must send a signed, written request inquiry to the U.S. Department of Commerce, International Trade Administration Privacy Act Office, and 1401 Constitution Ave., NW., Room 21023, Washington, DC 20230. Requesters should reasonably identify the records, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals who interact with the ITA through social media networks or as a result of public outreach.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 4, 2015.

Brenda Dolan,

Department of Commerce, Freedom of Information and Privacy Act Officer.

[FR Doc. 2015–11310 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of National Advisory Council on Innovation and Entrepreneurship Meeting

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The National Advisory Council on Innovation and Entrepreneurship (NACIE) will hold a public meeting on Thursday, June 4, 2015, 2:00–3:00 p.m. Eastern Daylight Time (EDT) and Friday, June 5, 2015, 8:30 a.m.–12:00 p.m. EDT. During this time, members will present proposals to the Secretary of Commerce, identify next steps, and continue to work on potential committee initiatives on innovation, entrepreneurship, and workforce/talent.

DATES:

Thursday, June 4, 2015, Time: 2:00–3:00 p.m. EDT

Friday, June 5, 2015, Time: 8:30 a.m.–12:00 noon EDT

ADDRESSES: June 4, 2015: General Services Administration, 1800 F St NW., Washington, DC 20006. Teleconference: Dial-In: 1–800–988–9617, Passcode: 7649366.

June 5, 2015: Department of Commerce, 1401 Constitution Ave., Washington, DC 20230. Teleconference: Dial-In: 1–800–369–2154, Passcode: 8915613.

SUPPLEMENTARY INFORMATION: The Council was chartered on November 10, 2009 to advise the Secretary of Commerce on matters related to innovation and entrepreneurship in the United States. NACIE's overarching focus is recommending transformational policies to the Secretary that will help U.S. communities, businesses, and the workforce become more globally competitive. The Council operates as an independent entity within the Office of Innovation and Entrepreneurship (OIE), which is housed within the U.S. Commerce Department's Economic Development Administration. NACIE members are a diverse and dynamic group of successful entrepreneurs, innovators, and investors, as well as leaders from nonprofit organizations and academia.

The purpose of this meeting is to discuss the Council's planned work initiatives in three focus areas: workforce/talent, entrepreneurship, and innovation. The final agenda will be posted on the NACIE Web site at *http://www.eda.gov/oie/nacie/* prior to the meeting. Any member of the public may submit pertinent questions and comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to the Office of Innovation and Entrepreneurship at the contact information below. Those unable to attend the meetings in person but wishing to listen to the proceedings can do so through a conference call line 1–800–988–9617, passcode: 7649366 on June 4 and 1–800–369–2154 passcode: 8915613 on June 5. Copies of the meeting minutes will be available by request within 90 days of the meeting date.

FOR FURTHER INFORMATION CONTACT: Julie Lenzer Kirk, Director, Office of Innovation and Entrepreneurship, Room 78018, 1401 Constitution Avenue NW., Washington, DC 20230; email: *NACIE@doc.gov;* telephone: 202–482–8001; fax: 202–273–4781. Please reference ''NACIE June 4–5 Meeting'' in the subject line of your correspondence.

Dated: May 5, 2015.

Julie Lenzer Kirk,

Director, Office of Innovation and Entrepreneurship.

[FR Doc. 2015–11309 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 1, 2015. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 15–005. Applicant: Idaho National Laboratory, 2525 Fremon Avenue, Idaho Falls, ID 83415. Instrument: Electron Microscope. Manufacturer: FEI, Czech Republic. Intended Use: The instrument will be used to analyze a wide range of materials, including nuclear fuel as well as structural materials that have been irradiated, to better understand the performance and characteristics of the material, improve the material, as well as solve nuclear material disposal issues. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 3, 2015.

Docket Number: 15–010. Applicant: Howard Hughes Medical Institute, 4000 Jones Bridge Road, Chevy Chase, MD 20815. Instrument: Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument will be used to examine the structure of biological specimens such as protein complexes, noninfectious viruses and small cells, to help elucidate their function. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 4, 2015.

Docket Number: 15–011. Applicant: University of South Alabama, 150 Jaguar Drive, Shelby Hall 4134, University of South Alabama, Mobile, AL 36688. Instrument: Electron Microscope. Manufacturer: FEI Czech Republic s.r.o., Czech Republic. Intended Use: The instrument will be used to utilize nanoscale measurements to determine the relation between the structure and function of hard and soft materials, as well as to understand how nanoscale geometries contribute to subcellular events in soft materials that constitute biological systems. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 10, 2015.

Docket Number: 15–012. Applicant: Albert Einstein College of Medicine of Yeshiva University, 1300 Morris Park Avenue, Bronx, NY 10461. Instrument: Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument will be used to capture fine structure modifications induced during cell motility or cellular secretion, and observe morphological changes in sub-cellular organelles (late endosomes and lysosomes) during various experimental conditions. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 17, 2015.

Docket Number: 15–014. Applicant: Johns Hopkins University, 3400 North Charles Street, Room 102 Dunning Hall, Baltimore, MD 21218. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to understand the role of proteins in various cell processes by establishing their 3D structure through routine protein crystallography. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 20, 2015.

Docket Number: 15–016. Applicant: Rutgers University, 89 French Street, New Brunswick, NJ 08901. Instrument: LN Microscope. Manufacturer: Luigs Neumann, Germany. Intended Use: The instrument will be used to identify specific alterations in synaptic transmission that lead to neuropsychiatric or neurological disorders, using a technique called patch clamp, which uses a glass pipette to patch a microscopic area of the cell membrane (diameter −1 micrometer) and then record the electrophysiological signals generated by the cell. The stability of micromanipulation this instrument is capable of and the clarity in identifying specific cell types in live brain slices will address the fine synaptic regulation differences between normal neurons and neurons carrying diseased genes that may cause autism, schizophrenia and other neuropsychiatric disorders. It will allow chances of recording from neurons for a longer time which allows testing of the effects of more compounds which may help to cure neurological or neuropsychiatric disorders. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 17, 2015.

Docket Number: 15–017. Applicant: City University of New York, 205 East 42nd Street, Room 11–64, New York, NY 10017. Instrument: Electron Microscope. Manufacturer: FEI Company, Japan. Intended Use: The instrument will be used to understand the structural mechanism by which macromolecular complexes, organelles and cells carry out their actions, and to design inhibitors/activators to alter their activity which can be used to treat diseases associated with the activity of the macromolecular complexes. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 24, 2015.

Docket Number: 15–018. Applicant: City University of New York, 205 East 42nd Street, Room 11–64, New York, NY 10017. Instrument: Electron Microscope. Manufacturer: FEI Company, Japan. Intended Use: The instrument will be used to understand the structural mechanism by which macromolecular complexes, organelles and cells carry out their actions, and to design inhibitors/activators to alter their activity which can be used to treat diseases associated with the activity of the macromolecular complexes. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 24, 2015.

Dated: May 4, 2015.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2015–11345 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: On December 31, 2014, the Department of Commerce (the Department) published the preliminary results and partial rescission of the administrative review of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC). We gave interested parties an opportunity to comment on the preliminary results in a notice. The period of review (POR) is December 1, 2012, through November 30, 2013. This review covers one exporter of subject merchandise, Shandong Rongxin Import & Export Co., Ltd. (Rongxin). For the final results, we continue to find that Rongxin is not eligible for a separate rate, and, thus, remains part of the PRC-wide entity.

DATES: *Effective:* May 11, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Sergio Balbontin, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785, (202) 482–6478, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 2014, the Department published the preliminary results and partial rescission of the administrative review of the antidumping duty order on pencils from the PRC.[1] Between February 2, 2015, and February 4, 2015, we received a case brief and a rebuttal brief with respect to the *Preliminary Results.* We conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the order includes pencils from the PRC. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.1010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum, dated concurrently with and hereby adopted by this notice.[2]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* The Issues and Decision Memorandum is also available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Enforcement and Compliance Web site at *http://enforcement.trade.gov/frn.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. Based on our analysis of the comments received, we did not make any revisions to the *Preliminary Results.* For a full description of the analysis underlying our conclusions, *see* the Issues and Decision Memorandum.

PRC-Wide Rate and PRC-Wide Entity

For the *Preliminary Results,* the Department assigned to the PRC-wide entity the rate of 114.90 percent.[3] Because this rate is the same as the PRC-wide rate from previous segments of this proceeding and nothing on the record of this review calls into question the reliability of the PRC-wide rate, we find it appropriate to continue to apply the rate of 114.90 percent to the PRC-wide entity.

In the *Preliminary Results,* the Department determined that Rongxin was not eligible for a separate rate and, therefore, Rongxin is part of the PRC-wide entity. After reviewing the issues raised in the case and rebuttal briefs from interested parties, the Department continues to find Rongxin ineligible for a separate rate. Thus, we continue to treat Rongxin as part of the PRC-wide entity.[4]

Final Results of the Review

As a result of this administrative review, we determine that the following weighted-average dumping margins exist: [5]

Exporter	Weighted-average dumping margin (percent)
PRC-Wide Entity *	114.90

* Includes Shandong Rongxin Import & Export Co., Ltd.

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review in accordance with the final results of this review.

The Department announced a refinement to its assessment practice in non-market economy country antidumping proceedings.[6] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, for

[1] *See Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2012–2013,* 79 FR 78795 (December 31, 2014) (*Preliminary Results*). Based on the timely withdrawal of the request for review of Orient International Holding Shanghai Foreign Trade Co., Ltd. (SFTC), we rescinded the review of SFTC. In the *Preliminary Results,* the Department inadvertently omitted ''Orient International Holding'' in referencing SFTC's full company name.

[2] *See* Memorandum ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China; 2012–2013'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[3] *See Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China,* 67 FR 59049 (September 19, 2002).

[4] The Department's change in policy regarding conditional review of the PRC-wide entity is not applicable to this administrative review. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013).

[5] As noted, Rongxin is not eligible for a separate rate.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment Practice Refinement*).

companies where the Department determined that the exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[7]

We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity of 114.90 percent; (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: April 30, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Separate Rate/PRC-Wide Entity
5. Discussion of the Issues
   Comment 1: Whether Rongxin is Entitled to a Separate Rate
   Comment 2: Whether Dixon is a U.S. Manufacturer of Subject Merchandise, and, therefore, Entitled to Request an Administrative Review of Rongxin
6. Recommendation

[FR Doc. 2015–10622 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 150501413–5413–01]

Manufacturing Extension Partnership State Competitions and Regional Forums

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the Hollings Manufacturing Extension Partnership Program (MEP) intends to publish and post two (2) separate announcements of funding availability for MEP Centers in calendar year 2016. The list of specific states that will be involved in the competitions will be posted on the NIST MEP Web site at: *http://www.nist.gov/mep/*. The funding announcements will be provided both in the **Federal Register** and on Grants.gov. Prior to or in conjunction with each publication, MEP will conduct approximately two to three Regional Forums.

DATES: The two separate announcements of funding availability are expected to be published and posted in January 2016 and July 2016, respectively. The Regional Forums will take place prior to or in conjunction with each publication, with notification to the public posted at: *www.nist.gov/mep/*.

ADDRESS: The FRNs will be published in the **Federal Register** at *https://www.federalregister.gov/,* and the FFOs will be posted on *http://www.grants.gov*. More information about MEP and past funding opportunities may be obtained from the MEP Web site: *www.nist.gov/mep/*.

FOR FURTHER INFORMATION CONTACT: Diane Henderson, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–5105, email: *mepffo@nist.gov*.

SUPPLEMENTARY INFORMATION: NIST MEP, through a state-federal network of 60 centers and 1,200 manufacturing experts, helps small and medium-sized manufacturers across the country to improve their production processes, upgrade their technological capabilities, and bring new products to market. MEP helps small and medium-sized manufacturers compete, thereby increasing employment and investment across the country and generating a high return on public investment.

Every dollar of federal investment in the MEP translates into $19 of new sales for small and medium-sized manufacturers, or almost $2.5 billion annually across the 30,000 small and medium-sized manufacturers that MEP serves. *See http://www.nist.gov/mep/about/index.cfm* and *http://www.nist.gov/mep/about-impact.cfm*. Since it was founded in 1988, MEP has worked with nearly 80,000 manufacturers, leading to $88 billion in sales and $14 billion in cost savings, and helping small manufacturers create more than 729,000 new jobs. *See http://www.nist.gov/mep/about/index.cfm*.

The MEP program is in the process of a multi-year effort to conduct full and open competitions to select operators for MEP centers. On August 1, 2014, NIST launched the first round of competitions for MEP centers in 10 states, focusing on states where the MEP investment in terms of dollars per manufacturing establishment was below its national average, making them the most underfunded of MEP's 60 centers. *See* 79 FR 44746 (Aug. 1, 2014). In February 2015, NIST MEP awarded cooperative agreements with start dates of July 1, 2015, to winning applicants in each of the 10 states.

On March 9, 2015, NIST announced funding opportunities in 12 states, with

[7] For a full discussion of this practice, *see Assessment Practice Refinement.*

an application deadline of June 1, 2015. *See* 80 FR 12451 (March 9, 2015); *http://www.grants.gov/web/grants/search-grants.html?keywords=NIST* MEP. The primary objective of these competitions is to optimize the impact of the Federal investment on U.S. manufacturing and to allocate additional funds to areas with higher concentrations of manufacturers. Non-profit organizations, including public and private nonprofit organizations, nonprofit or State colleges and universities, public or nonprofit community and technical colleges, and State, local or Tribal governments, are eligible to apply for a NIST cooperative agreement for the operation of an MEP Center. In turn, MEP Centers work directly with small and medium-sized manufacturers to expand the range of growth, innovation, lean production, supply chain innovation, technology acceleration and workforce development offered to small and medium-sized manufacturers. In addition to a continued focus on growing all sectors of U.S. manufacturing, it is expected that an increased emphasis will be given to offering these services to very small firms, rural firms, and start-up firms. The competitions provide an opportunity to expand the number of small and medium-sized manufacturers served by the network and to align the program activities with the strategic goals of the states.

The benefits of competition include:

- Opportunity to realign MEP center activities with State economic development strategies;
- Resetting of NIST MEP funding levels by State to reflect the regional importance of manufacturing and the national distribution of manufacturing activities;
- Reduction and simplification of reporting requirements; and
- Five-year awards reducing the annual paperwork burden.

It should be noted that the MEP Program is not a Federal research and development program. It is not the intent of the program that awardees will perform systematic research. To learn more about the MEP Program, please go to *http://www.nist.gov/mep/*.

NIST MEP anticipates announcing the competitions for approximately eleven (11) states in January 2016, with new MEP Center cooperative agreement awards anticipated to start in October 2016. NIST MEP anticipates announcing the competitions for an additional eleven (11) states in July 2016, with new MEP Center cooperative agreement awards anticipated to start in April 2017. The proposed list of states for the January 2016 and July 2016 announcements of funding availability will be posted on the MEP Web site at *http://www.nist.gov/mep/*. The list of specific states may change from time to time until finalized in the announcements of funding availability.

This notice contains information based on the current planning for NIST MEP's activities in calendar year 2016, with the competitions expected to be completed by December 2016. NIST reserves the discretion to add and/or remove states from the list of states participating in the MEP competitions. The final list of states participating in each of the MEP Center competitions and the funding amounts available will be published in the announcements of funding availability that will be published in the **Federal Register** and posted simultaneously on *www.grants.gov*.

In addition to issuing the two announcements of funding availability described above, NIST MEP intends to conduct approximately two to three regional forums prior to or in conjunction with each publication of these announcements. These forums will provide general information regarding MEP and offer general guidance on preparing proposals. NIST/MEP staff will be available at the forums to answer general questions. During the forums, proprietary technical discussions about specific project ideas will not be permitted. Also, NIST/MEP staff will not critique or provide feedback on any project ideas during the forums or at any time before submission of a proposal to MEP. However, NIST/MEP staff will provide information about business model approaches, developing proposals and sharing lessons learned from the 2015 MEP competition. NIST/MEP staff will also discuss the MEP eligibility and cost-sharing requirements, evaluation criteria and selection factors, selection process, and the general characteristics of a competitive MEP proposal.

Once specific dates, locations and agendas have been identified for each of these Regional Forums, NIST MEP will post this information on its public Web site, *http://www.nist.gov/mep/*.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2015–11256 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 150114043–5407–01]

RIN 0648–XD722

Endangered and Threatened Wildlife and Plants: Notice of 12-Month Finding on a Petition To List the Undulate Ray and the Greenback Parrotfish as Threatened or Endangered Under the Endangered Species Act (ESA)

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

ACTION: Status review; notice of finding.

SUMMARY: We, NMFS, have completed comprehensive status reviews under the Endangered Species Act (ESA) for two foreign marine species in response to a petition to list those species. These species are the undulate ray (*Raja undulata*) and the greenback parrotfish (*Scarus trispinosus*). We have determined that, based on the best scientific and commercial data available, listing the undulate ray under the ESA is not warranted and listing the greenback parrotfish under the ESA is not warranted. We conclude that the undulate ray and the greenback parrotfish are not currently in danger of extinction throughout all or a significant portion of their respective ranges and are not likely to become so within the foreseeable future.

DATES: The finding announced in this notice was made on *May 11, 2015*.

ADDRESSES: You can obtain the petition, status review reports, the 12-month finding, and the list of references electronically on our NMFS Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm*.

FOR FURTHER INFORMATION CONTACT: Ronald Salz, NMFS, Office of Protected Resources (OPR), (301) 427–8171.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or subpopulations as threatened or endangered under the Endangered Species Act (ESA). This petition included species from many different taxonomic groups, and we prepared our 90-day findings in batches by taxonomic group. We found that the petitioned actions may be warranted for 24 of the species and 3 of the subpopulations and announced the initiation of status reviews for each of

the 24 species and 3 subpopulations (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). This document addresses the 12-month findings for two of these species: undulate ray (*Raja undulata*) and greenback parrotfish (*Scarus trispinosus*). Findings for seven additional species and two subpopulations can be found at 79 FR 74853 (December 16, 2014), 80 FR 11363 (March 3, 2015), and 80 FR 15557 (March 24, 2015). The remaining 15 species and one subpopulation will be addressed in subsequent findings.

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted a policy describing what constitutes a distinct population segment (DPS) of a taxonomic species (the DPS Policy; 61 FR 4722). The DPS Policy identified two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As stated in the DPS Policy, Congress expressed its expectation that the Services would exercise authority with regard to DPSs sparingly and only when the biological evidence indicates such action is warranted. Based on the scientific information available, we determined that the undulate ray (*Raja undulata*) and the greenback parrotfish (*Scarus trispinosus*) are both ''species'' under the ESA. There is nothing in the scientific literature indicating that either of these species should be further divided into subspecies or DPSs.

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future. In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

When we consider whether a species might qualify as threatened under the ESA, we must consider the meaning of the term ''foreseeable future.'' It is appropriate to interpret ''foreseeable future'' as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. The foreseeable future considers the life history of the species, habitat characteristics, availability of data, particular threats, ability to predict threats, and the reliability to forecast the effects of these threats and future events on the status of the species under consideration. Because a species may be susceptible to a variety of threats for which different data are available, or which operate across different time scales, the foreseeable future is not necessarily reducible to a particular number of years. In determining an appropriate ''foreseeable future'' timeframe for the undulate ray and the greenback parrotfish, we considered both the life history of the species and whether we could project the impact of threats or risk factors through time. For the undulate ray, we could not define a specific number of years as the ''foreseeable future'' due to uncertainty regarding life history parameters of, and threats to, the species. For the greenback parrotfish, the foreseeable future was defined as approximately 40 years, based on this species' relatively long life span (estimated at 23 years [Previero, 2014a]), which means threats can have long-lasting impacts.

On July 1, 2014, NMFS and USFWS published a policy to clarify the interpretation of the phrase ''significant portion of its range'' (SPR) in the ESA definitions of ''threatened'' and ''endangered'' (the SPR Policy; 76 FR 37578). Under this policy, the phrase ''significant portion of its range'' provides an independent basis for listing a species under the ESA. In other words, a species would qualify for listing if it is determined to be endangered or threatened throughout all of its range or if it is determined to be endangered or threatened throughout a significant portion of its range. The policy consists of the following four components:

(1) If a species is found to be endangered or threatened in only an SPR, the entire species is listed as endangered or threatened, respectively, and the ESA's protections apply across the species' entire range.

(2) A portion of the range of a species is ''significant'' if its contribution to the viability of the species is so important that, without that portion, the species would be in danger of extinction or likely to become so in the foreseeable future, throughout all of its range.

(3) The range of a species is considered to be the general geographical area within which that species can be found at the time USFWS or NMFS makes any particular status determination. This range includes those areas used throughout all or part of the species' life cycle, even if they are not used regularly (*e.g.,* seasonal habitats). Lost historical range is relevant to the analysis of the status of the species, but it cannot constitute an SPR.

(4) If a species is not endangered or threatened throughout all of its range but is endangered or threatened within an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

We considered this policy in evaluating whether to list the undulate ray and greenback parrotfish as endangered or threatened under the ESA.

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts being made by any state or foreign nation to protect the species.

In assessing extinction risk of these two species, we considered the demographic viability factors developed by McElhany *et al.* (2000) and the risk matrix approach developed by Wainwright and Kope (1999) to organize and summarize extinction risk considerations. The approach of considering demographic risk factors to

help frame the consideration of extinction risk has been used in many of our status reviews (see *http://www.nmfs.noaa.gov/pr/species* for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four demographic viability factors: abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viability factors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk.

Scientific conclusions about the overall risk of extinction faced by the undulate ray and greenback parrotfish under present conditions and in the foreseeable future are based on our evaluation of the species' demographic risks and section 4(a)(1) threat factors. Assessment of overall extinction risk considered the likelihood and contribution of each particular factor, synergies among contributing factors, and the cumulative impact of all demographic risks and threats on the species.

Status reviews for the undulate ray and the greenback parrotfish were conducted by NMFS OPR staff. In order to complete the status reviews, we compiled information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. We also considered information submitted by the public in response to our petition findings. Draft status review reports were also submitted to independent peer reviewers; comments and information received from peer reviewers were addressed and incorporated as appropriate before finalizing the draft reports. The undulate ray and greenback parrotfish status review reports are available on our Web site (see **ADDRESSES** section). Below we summarize information from these reports and the status of each species.

Status Reviews

Undulate Ray

The following section describes our analysis of the status of the undulate ray, *Raja undulata*.

Species Description

The undulate ray, *Raja undulata,* is a member of the Family Rajidae whose origin is from the Late Cretaceous period, about 100 to 66 million years ago. Species diversification within the Family Rajidae occurred 15 to 2 million years ago in the northeast Atlantic and Mediterranean, where undulate rays exist today (Valsecchi *et al.,* 2004). The undulate ray is part of the Rajini tribe, which is a taxonomic category above the genus and below the family level. The Rajini tribe is defined by two morphological characteristics: (1) Disc free of denticles, and (2) crowns of alar thorns (sharp-pointed, recurved thorns located on the outer aspect of pectoral fins of mature males) with barbs (McEachran and Dunn, 1998).

The undulate ray gets its name from the leading edge of the disc, which undulates from the snout to the wingtips during movement. Its dorsal color ranges from almost black to light yellow-brown interspersed with dark wavy bands lined by a twin row of white spots, which may camouflage them against the seabed. The underbelly is white with dark margins. The dorsal fins are widely spaced, normally with two dorsal spines between them. The undulate ray is relatively large, reaching 114 cm in total length (TL) as an adult (Ellis *et al.,* 2012).

Growth rates, size and age at maturity, and seasonal patterns of reproduction in undulate rays were determined from individuals taken from trammel nets, beach seines, and fish markets in Portugal (Coelho and Erzini, 2002; Coelho and Erzini, 2006; Moura *et al.,* 2007). The undulate ray exhibits rapid growth in the first year, but overall has a slower growth rate compared to most species of *Raja* (n = 187; Von Bertalanffy growth $L\infty$ = 110.22 cm, K = 0.11 per year and t_0 = -1.58 year) (Coelho and Erzini, 2002). Females appear to become sexually mature later in life and at a larger body size than males (Coelho and Erzini, 2006; Moura *et al.,* 2007; Serra-Pereira *et al.,* 2013). In the Algarve estuary along the south coast of Portugal, the mean age and body size at which half of the females became sexually mature was 8.98 years and 76.2 cm TL. Half of the males became sexually mature at 7.66 years and a body size of 73.6 cm TL (Coelho and Erzini, 2006). This means that half of the females in the Algarve estuary became mature at 86.3 percent of their maximum size and 69.1 percent at their maximum age and half of the males became mature at 88.5 percent of maximum size and 63.8 percent at maximum age. This makes the undulate ray, at least for this study area, a late maturing species (Coelho and Erzini, 2006). Moura *et al.* (2007) found slightly larger values for length at maturity for both females (83.8 cm TL) and males (78.1 cm TL) in the Peniche region on the central coast of Portugal, which may indicate two different populations of the undulate ray exist on the Portuguese continental shelf (Moura *et al.,* 2007). However, low sample sizes and different survey methods may account for the differences found between the study areas (Ellis, CEFAS, 2014 personal communication). Stéphan *et al.* (2013) reported the minimum length at maturity for males captured in the English Channel and Bay of Biscay was 74 cm TL, with 50 percent of the sample (n = 191) reaching maturity at 80 cm TL.

Estimated generation length (the age at which half of total reproductive output is achieved by an individual) for this species varies from 14.9 to 15.9 years in females and from 14.3 to 15.3 years in males (Coelho *et al.,* 2009). Based on an analysis of vertebral band deposits of 187 undulate rays caught in commercial fisheries in the Algarve estuary, the oldest individuals were estimated to be 13 years old, but overall longevity for this species has been estimated to be around 21–23 years (Coelho *et al.,* 2002).

The undulate ray is a seasonal breeder; however, temporal differences in breeding season were found between nursery areas (Moura *et al.,* 2007). Individuals from the Algarve region in south Portugal were found to breed only in the winter (Coelho and Erzini, 2006), those from Peniche in central Portugal were found to breed from February through May (Moura *et al.,* 2007; Serra-Pereira *et al.,* 2013), and in Portugal's north central coast, breeding occurred from December through June (Serra-Pereira *et al.,* 2013). Water temperatures in the Peniche region are colder than those in the Algarve, which may explain the longer breeding season observed there (Moura *et al.,* 2007).

The undulate ray is oviparous, in that the fertilized egg, which is encased in an egg capsule, hatches outside of the parental body (Moura *et al.,* 2008). Egg cases measure 70–90 mm long and 45–60 mm wide. Typical reproductive output is unknown; however, one female was observed to lay 88 egg cases over 52 days and the incubation period was 91 days (Shark Trust, 2009). In general, Rajidae exhibit protracted incubation times ranging from 4 to 15 months (Serra-Pereira *et al.,* 2011).

Information on sex ratios in the population is sparse, but appears to indicate a slight female bias in some areas and significant male bias in other areas. In the eastern English Channel, individuals collected in bottom trawl surveys were slightly female-biased at 57 percent female and 43 percent male (Martin *et al.,* 2010). Undulate rays caught in the Bay of Biscay, France, by fishermen, fishing guides, and scientists

were generally 48 to 95 cm in total length and the sex ratio was 54 percent female and 46 percent male (Delamare *et al.,* 2013). Other studies have found a preponderance of males. During three gillnet fisheries trips in May 2010 and two trips in February-March 2011 off the Isle of Wight in the English Channel, the ratio of females to males was 1:4.5 and 1:6.0, respectively, and all were mature adults (Ellis *et al.,* 2012).

Undulate ray habitat in the northeastern Atlantic Ocean includes sandy and coarse bottoms from the shoreline to no deeper than 200 m, but undulate rays are generally found in waters less than 50 m deep (Saldnaha, 1997 as cited in Coelho and Erzini, 2006; Martin *et al.,* 2010; Martin *et al.,* 2012; Ellis *et al.,* 2012). Undulate rays, especially juveniles, inhabit inshore waters, including lagoons, bays, rias (defined as a coastal inlet formed by the partial submergence of a river valley that is not covered in glaciers and remains open to the sea), and outer parts of estuaries (Ellis *et al.,* 2012).

The English Channel provides important habitat for the undulate ray (Martin *et al.,* 2010; Martin *et al.,* 2012). The main predictors of elasmobranch habitat in the English Channel were depth, bed shear stress (an estimate of the pressure exerted across the seabed by tidal forcing), and stability, followed by seabed sediment type and temperature (Martin *et al.,* 2010). The undulate ray was found more frequently in the western area of the English Channel, particularly in the area between the Cherbourg Peninsula and Isle of Wight, where the seabed is hard (pebble) and tidal currents strong. However, the species was also reported in patches of lower density in some shallower coastal waters in the eastern part of the English Channel (Martin *et al.,* 2010; Martin *et al.,* 2012). Based on counts of egg cases recorded on beaches along the south coast of England, areas to the west and east of the Isle of Wight may be important nursery areas for the undulate ray (Dorset Wildlife Trust, 2010).

The Gironde estuary of France provides important sand and mud bottom habitat for the undulate ray (Lobry *et al.,* 2003). Tides are strong within the estuary (average flow volume between 800 and 1,000 m^3/s) and turbidity is high, frequently exceeding 400 mg/L. The undulate ray is one of the most common species found in the coastal waters of the Tagus estuary in the central and west coast of Portugal (Prista *et al.,* 2003). About 60 percent of the estuary is exposed at low tide, revealing soft bottom habitat. However, specific data are lacking on the undulate ray's distribution and association with specific habitat within the estuary.

In waters off Portugal, the undulate ray diet changed as individuals grew and matured. Smaller individuals had a generalized diet, consuming a variety of semi-pelagic and benthic prey, including shrimps and mysids. However, larger undulate rays began to specialize on the brachyuran crab, *Polybius henslowi,* with the largest undulate rays eating this prey item almost exclusively (Moura *et al.,* 2008). The shift in diet from semi-pelagic and benthic species to primarily benthic crabs occurred at 55 cm TL, and the shift from more generalized to specialized diet occurred at 75 cm TL. The first shift may be due to juveniles migrating from nursery to foraging habitat, and the second shift may be related to the onset of maturity (Moura *et al.,* 2008).

Population Abundance, Distribution, and Structure

The undulate ray occurs on the continental shelf of the northeast Atlantic Ocean, ranging in the north from southwest Ireland and the English Channel, south to northwest Africa, west to the Canary Islands, and east into the Mediterranean Sea (Serena, 2005; Coelho and Erzini, 2006; Ellis *et al.,* 2012). The undulate ray exhibits a patchy distribution throughout its range. According to ICES (2008), the patchy distribution of the undulate ray may have existed as far back as the 1800s. It is locally abundant at sites in the central English Channel, Ireland, France, Spain, and Portugal (Ellis *et al.,* 2012). Within the Mediterranean Sea, occasional records occur off Israel and Turkey, but they are mainly recorded from the western region off southern France and the Tyrrhenian Sea (Serena, 2005; Ellis *et al.* 2012). In 2001, a few specimens were recorded in bottom trawl hauls on the continental shelf of the Balearic Islands off the Iberian Peninsula (western Mediterranean) (Massutí and Moranta, 2003; Massutí and Reñones, 2005). Specimens have also been reported in the southern North Sea and Bristol Channel, but these areas are outside the normal distribution range (Ellis *et al.,* 2012).

Few data exist regarding undulate ray population structure. Tagging studies were conducted in French waters from 2012 through 2014 to determine population structuring of the undulate ray in the English Channel, central Bay of Biscay, Iroise Sea, South Brittany, and Morocco, North Africa (Delamare *et al.,* 2013). Preliminary data from the Bay of Biscay and western English Channel indicate undulate rays do not migrate great distances. In the central Bay of Biscay, 1,700 undulate rays were tagged from April 2012 through May 2013. Of the rays tagged, 98 were recaptured within 450 days of tagging, mainly within 30 km of the tagging location; about two-thirds were recaptured within 10 km, indicating high site fidelity. The number of days between capture and recapture did not affect the distances between the two points, also supporting high site fidelity (Delamare *et al.,* 2013). The central part of the Bay of Biscay may host a closed population exhibiting a small degree of emigration and immigration (Delamare *et al.,* 2013). Mark and recapture studies in the western English Channel around the Island of Jersey also indicate high site fidelity (Ellis *et al.,* 2011). Discrete populations may also occur in the bays of southwest Ireland (ICES, 2007; ICES, 2013).

The ICES Working Group on Elasmobranch Fishes (2013) recommended the species be managed as five separate stocks: (1) English Channel; (2) southwest Ireland; (3) Bay of Biscay; (4) Cantabrian Sea; and (5) Galicia and Portugal. However, the recommendation was based only on the species' patchy distribution and not direct evidence of population structure. Data are lacking on population structure based on behavioral, morphological, and genetic characteristics.

Determining population size or trends is difficult due to the patchy distribution of the species, variable survey effort and survey methods over time, inconsistent metrics for reporting abundance, temporally limited (less than 20 years) data sets, and species misidentification. Prior to 2009, the undulate ray was often classified at a higher taxonomic level, *i.e.* miscellaneous rays and skates (LeBlanc *et al.,* 2013); thus, the species was an unknown percentage of a larger sample and was likely underrepresented in the landings data. Trends based on fisheries landings have limited utility in understanding true population trends. Restrictions and catch limits have been implemented for the undulate ray at least since 2009; thus, any reported decline in recent species-specific landings may be more reflective of changes in fisheries practices, effort, and regulations rather than changes in species abundance (see Ellis *et al.,* 2010).

Fisheries-independent bottom trawl surveys were conducted in the eastern English Channel each October from 1988 through 2008 (Martin *et al.,* 2010; Martin *et al.,* 2012). During this period 1,800 hauls were made and 16 different elasmobranch species were captured.

The undulate ray was the eighth most abundant elasmobranch in terms of individuals caught and percent total biomass (Martin *et al.,* 2010). Mean densities of undulate ray fluctuated dramatically from 1988 through 2008, and no trend could be detected. The undulate ray was present in 3.8 percent of the fisheries-independent bottom trawl survey hauls from 1988–1996 and 3.8 percent of hauls from 1997–2008, indicating stability in presence in the area (Martin *et al.,* 2010).

Fisheries-independent beam trawl surveys have been conducted in the eastern and western English Channel each year since 1989. In the eastern English Channel survey, undulate ray catch rates were generally low and variable, partly due to its patchy distribution. For the period 1993–2013, mean number of individuals caught per hour of survey effort ranged from a low of zero (in 2006 and 2007) to between 0.25 and 0.30 (in 1996, 2009, 2012–2013) (ICES, 2014a). In the western English Channel beam trawl survey, undulate ray catch rates were also generally low and variable from 1989–2011 (Burt *et al.,* 2013), with an apparent decreasing trend after 2004. Mean relative abundance was zero in 6 out of 7 years from 2005–2011. However, preliminary results from surveys conducted in 2012–2013 of fishermen operating in the western English Channel indicate that the undulate ray is a main species caught, representing approximately 75 percent of the ray catch in trawl, dredge, gillnet, and longline gear (LeBlanc *et al.,* 2013). The English Channel undulate ray stock status was considered uncertain and classified by ICES as a ''data-limited stock'' with a precautionary margin of 20 percent recommended for fishery management (ICES, 2012). The ''precautionary margin'' is a 20 percent reduction to catch advice that serves as a buffer when reference points for stock size or exploitation (*e.g.,* maximum sustainable yield) are unknown (ICES, 2012).

In the southern region of the North Sea, the undulate ray may be a rare vagrant, but it is absent further north (Ellis *et al.,* 2005). From 1990–1995, beam trawl surveys conducted in coastal waters of the eastern North Sea, English Channel, Bristol Channel, and Irish Sea indicated that the undulate ray was the least common of seven ray species collected (Rogers *et al.,* 1998a). Overall abundance in the British Isles was low (<8 individuals per hour per ICES survey area) (Ellis *et al.,* 2005). The undulate ray was reported in trawl surveys conducted from 1973 to 1997 along the south coasts of England (0.003 individuals per 1000 m^2), but is absent from other parts of the survey grid (Rogers and Millner, 1996; Rogers *et al.,* 1998b). Juveniles were infrequent catches in the surveys (Rogers *et al.,* 1998b). Cooler water temperatures may explain the absence of the undulate ray in sampling stations along the more northern coast of England (Rogers and Millner, 1996).

Catch of undulate ray was reported by two charter vessels from Tralee Bay, southwestern Ireland, for the years 1981 through 2005 (ICES, 2007). Although effort data were not reported, the overall catch trend suggests a decline in abundance. Undulate ray catch was at a high of 80–100 fish per year in the first 2 years of reporting (1980–1981), declined to 20–30 fish per year by the mid-1990s, increased to about 40–60 fish per year at the turn of the century, and declined again from 2001 through 2005, although catches fluctuated each year (ICES, 2007). Tag and release data collected in the recreational fishery throughout southwestern Ireland, including Tralee Bay, from 1972–2014 indicate a decline since the 1970s, but potential changes in fishing effort were not provided (ICES, 2014b).

The Tagus estuary, in the central and west coast of Portugal, was surveyed between 1979 and 1981 and from 1995 through 1997 to determine fish abundance and diversity (Cabral *et al.,* 2001). The undulate ray was a common species, usually in the top 3 to 5 most common species found in the surveys over time. Mean density was similar or even slightly increased over the sampling period (less than 0.01/1,000 m^2 in 1979 and 1995; 0.01/1,000 m^2 in 1996; 0.03/1,000 m^2 in 1997) (Cabral *et al.,* 2001). More recent data reflecting the current status of the undulate ray in the Tagus estuary were not available.

French landings data on the undulate ray for the Celtic Sea from 1995–2001 show a declining trend from a high of 12 t in 1995 to a low of 0 t in 2000 and 2001 (ICES, 2007). However, not all French fisheries reported skate landings at the species level. In coastal waters off Spain, based on bycatch data from artisanal fisheries, there is no evidence of a decreasing trend in undulate ray abundance (Bañon *et al.,* 2008 as cited in ICES, 2010). Data on undulate ray abundance and trends in the western Mediterranean Sea and northwest coast of Africa were not available.

Summary of Factors Affecting the Undulate Ray

Available information regarding current, historical, and potential future threats to the undulate ray was thoroughly reviewed (Conant, 2015). We summarize information regarding threats below according to the factors specified in section 4(a)(1) of the ESA. There is very little information available on the impact of ''Disease or Predation'' or ''Other Natural or Manmade Factors'' on undulate ray survival. These subjects are data poor, but there are no serious or known concerns raised under these threat categories with respect to undulate ray extinction risk; therefore, we do not discuss these further here. See Conant (2015) for additional discussion of all ESA section 4(a)(1) threat categories.

Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Data are limited on the undulate ray's habitat, and a comprehensive review of the habitat characteristics that are important to the undulate ray, and anthropogenic impacts on undulate ray habitat are not available. Thus, the following section summarizes available data by region on any habitat impacts, if known.

The Tagus estuary in Portugal has been subjected to industrial development and urbanization (Cabral *et al.,* 2001). Lisbon, which is on the Tagus River and estuary, has experienced dramatic increases in human population growth since the early 1900s. In 2000, the human population living along the coast of the estuary was estimated at 2 million, which has resulted in high pollution loads in the estuary and poor water quality (Cabral *et al.,* 2001). The Tagus estuary is one of the largest and most contaminated by anthropogenic mercury in Europe. When released to the water column mercury can accumulate in aquatic organisms, causing contamination within the food chain. Accumulation of metals has been documented in other species, such as the European eel (*Anguilla anguilla*), that were collected from the Tagus estuary (Neto *et al.,* 2011). However, data are lacking on specific contaminant loads and effects on the undulate ray. In fact, abundance data in the Tagus estuary reported by Cabral *et al.* (2001) indicate that the undulate ray density slightly increased between 1979 and 1997.

The Gironde estuary is considered somewhat pristine and has relatively fewer phosphates and nitrogen content compared to other estuaries in France, such as the Seine, Loire, and Rhône (Mauvais and Guillaud, 1994 cited in Lobry *et al.,* 2003). However, human impacts have been documented for the estuary, including contamination,

nitrogen loads, and hypoxic conditions from upland activities (Dauvin, 2008).

The English Channel, and its local biodiversity, are also subject to numerous anthropogenic impacts, including shipping, aggregate extraction, aquaculture, and eutrophication (Dauvin, 2008; Martin *et al.,* 2010; Martin *et al.,* 2012). Maritime traffic in the English Channel is intense, with up to 600 vessels passing through the Dover Straits each day. Transportation of oil is a major component of the shipping industry in the English Channel.

Major oil spills have occurred in European seas, including off the Brittany coast of France, Cornwall coast of England, and Galician coast of Spain (Dauvin, 2008). In 2002, a spill of over 50,000 tons of heavy oil occurred 250 miles from Spain's coast (Serrano *et al.,* 2006). The spill occurred during November, and the winter conditions dispersed and sank the oil as tar aggregates along the continental shelf. These tar aggregates were still detected on the continental shelf one month after the spill, and oil was found in zooplankton species. Serrano *et al.* (2006) sampled the area affected by the oil and compared it to pre-spill data to determine if changes in biomass and benthic diversity had occurred due to the oil spill. The undulate ray was one indicator species in the study; however, the data were aggregated across taxa. Although density of several taxa declined significantly in 2003, their density increased to pre-oil spill numbers in 2004—two years after the oil spill (Serrano *et al.,* 2006). Also, the dissimilarity in species abundance between 2002 and 2003 was not due to changes in any ray species, including the undulate ray. The study found no effect on biomass and benthic diversity due to the tar aggregation. Rather, environmental variables such as depth, season, latitude, and sediment characteristics influenced benthic community structure (Serrano *et al.,* 2006).

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

With respect to commercial fishing, the undulate ray is mainly bycaught in demersal fisheries using trawls, trammel nets, gillnets, and longlines, but has been recorded as landings in other fisheries operating within its range (Coehlo *et al.,* 2009). Landings data are generally reported as a generic ''skates and rays'' category and are not species specific. By the early 1900s, the UK reported general skate landings of 25,000–30,000 t per year (Ellis *et al.,* 2010). Since 1958, general skate landings have declined and have been less than 5,000 t per year since 2005 (Ellis *et al.,* 2010). Where landings are identified to the undulate ray level, recent restrictions on fisheries need to be considered in any interpretation on trends (Ellis *et al.,* 2010). In 2009 and 2010, through Council Regulation EC No 43/2009 and Council Regulation EU No 23/2010, respectively, the European Commission (EC) banned the retention of the undulate ray in the European Union (EU) by fishing vessels equipped for commercial exploitation of living aquatic resources (EC 2371/2002). Prior to the retention ban, the species was a relatively common commercial fish caught in the northeast Atlantic and Mediterranean bays and estuaries (Costa *et al.,* 2002). In the two years preceding the 2009 retention ban on undulate rays, 60–100 t per year were landed in the Bay of Biscay off the coast of France (Hennache, 2012 cited in Delamare *et al.,* 2013). French landings data on the undulate ray for the Celtic Seas were 12 t in 1995, 6 t in 1996, 10 t in 1997, after which landings fell to 2 t in 1998, 1 t in 1999, and 0 t in 2000–2006 (ICES, 2007), which may indicate overexploitation in this area. However, it is unknown what percentage of French fisheries reported skate landings to the species level. French landings data of Rajidae from 1996 to 2006 were variable with no detectable trend and ranged from 934 t in 2003 to 2,058 t in 1997 (ICES, 2007).

In Portugal, prior to the 2009 retention ban, over 90 percent of the undulate rays caught in trammel nets were retained for commercial purposes or for personal consumption (Coelho *et al.,* 2002; Coelho *et al.,* 2005; Batista *et al.,* 2009; Baeta *et al.,* 2010). The undulate ray was the most prominent elasmobranch species by weight (8.51 kg per 10 km of net), comprising almost 35 percent of the elasmobranch biomass caught in the Portuguese artisanal trammel net fishery between October 2004 and August 2005 (Baeta *et al.,* 2010). Catch per unit effort (CPUE) was highest in shallow waters (0–25 m) and slightly increased in cooler months. *Raja spp.* landings in Portuguese artisanal fisheries decreased 29.1 percent between 1988 and 2004 (Coelho *et al.,* 2009). However, landings data were not reported by species, so trends in undulate ray landings data for this area are unknown.

In the Gulf of Cadiz off Spain, the undulate ray was the fifth most common species discarded (Gonçalves *et al.,* 2007). The undulate ray is also bycaught in the Spanish demersal trawl fleet operating in the Cantabrian Sea located in the southern Bay of Biscay (ICES, 2007). However, trawling is banned in waters shallower than 100m, so much of the bycatch in the area occurs in small artisanal gillnet fisheries operating in bays or shallow waters (ICES, 2010). The undulate ray is an important species for artisanal fisheries operating in the coastal waters of Galicia, and there is no evidence of a decreasing trend in its abundance in the area (Bañon *et al.,* 2008 as cited in ICES, 2010).

In the western Mediterranean, in 2001, one undulate ray was recorded in a total of 131 bottom trawl hauls (Massutí and Moranta, 2003) and two specimens were recorded in 88 hauls (Massutí and Reñones, 2005) on the continental shelf of the Balearic Islands off the Iberian Peninsula. Landings data are not available for the northwestern coast of Africa, but the undulate ray's preference for shallow waters may render it vulnerable to intensive artisanal coastal fisheries operating in the area (Coelho *et al.,* 2009).

Inclusion of the undulate ray on the EC prohibited species list has increased commercial discarding of this species, especially in areas where it is locally common (ICES, 2013). Data are lacking on mortality in the undulate ray as a result of discarding. Mortality may be high in skates and rays discarded from fishing gear operating offshore where soak times are relatively long (Ellis *et al.,* 2010); however, skates primarily caught in otter trawls, gillnets, and beam trawls by inshore vessels operating in areas occupied by undulate rays have shown high survival rates (Ellis, CEFAS, personal communication, 2014).

As discussed earlier, recreational catches have declined in Tralee Bay and southwestern Ireland, which may indicate overexploitation in this area, although fishing effort data are not available. The International Game Fish Association (IGFA), which has 15,000 members in over 100 countries, lists the undulate ray as a trophy fish (Shiffman *et al.,* 2014). Trophy fishing may result in catching large and fecund fish. Although the IGFA undulate ray trophy fishery is a catch and release program, some fish may die after being released (Shiffman *et al.,* 2014). Data are lacking on the number of undulate ray caught in the IGFA program and on the recreational post-release mortality of undulate rays.

In addition to commercial and recreational fishing, population abundance research involving the tagging of undulate rays could have an impact on the species. Petersen disk tags were tested for the level of mortality

that may result from their use under controlled conditions in holding tanks. Two of 34 tagged rays died, most likely due to the applied tags (Delamare *et al.,* 2013). The authors stated that although the mortality is low, it is not negligible and needs to be accounted for in designing and carrying out future studies involving tags. Mark recapture studies using Petersen disk tags were conducted in 2013 in the western English Channel and Bay of Biscay. A total of 1,700 undulate rays were tagged and released during 6 sampling trips in the Atlantic, and 224 undulate rays were tagged and released during 4 sampling in the English Channel (Stéphan *et al.,* 2013). Fisheries independent surveys generally result in low mortality of all species of rays caught (Ellis *et al.,* 2012).

Inadequacy of Existing Regulatory Mechanisms

As described above, in 2009, through Council Regulation (EC No 43/2009), and in 2010, through Council Regulation (EU No 23/2010), the EC designated the undulate ray as a prohibited species that could not be fished, retained, transshipped or landed in the EU. Member countries of the EU include France, Spain, Portugal, UK, and Ireland—all countries where the undulate ray occurs. The justification for the ban was based largely on ICES's findings that the state of conservation in the Celtic Sea was ''uncertain but with cause for concern'' and recommendation of no targeted fishing for this species (ICES, 2014b). The prohibited species designations have been controversial and some EU countries have questioned the rationale behind them (ICES, 2013; ICES, 2014). In 2010, the EC asked ICES to comment on the listing of the undulate ray as a prohibited species. ICES (2010) stated that the undulate ray would be better managed under local management measures and ''should not appear on the prohibited species list in either the Celtic Seas or the Biscay/Iberia ecoregion.'' ICES classified the undulate ray as a ''data-limited stock'' and recommended a precautionary approach to the exploitation of this species (ICES, 2012). In 2014, the undulate ray was removed from the prohibited species list in ICES Sub-Area VII, which includes Ireland and the English Channel (ICES, 2014b), although it remains as a species that should be returned to the water unharmed to the maximum extent practicable and cannot be landed in this area.

In England and Wales, the undulate ray is designated as a species of principal importance in conserving biodiversity under sections 41 and 42 of the Natural Environment and Rural Communities Act of 2006. Thus, England and Wales must take into consideration the undulate ray in conserving biodiversity when performing government functions such as providing funds for development.

Other fishing regulations apply generally to skates and rays. Local English and Welsh minimum landing sizes are in effect in some inshore areas (Ellis *et al.,* 2010). In 1999, a total allowable catch (TAC) set at 6,060 t was established for skates and rays in the North Sea (ICES Division IIa and sub-area IV). The TAC was reduced by 20 percent (to 4,848 t) for the period 2001–2002, and has been further reduced by between 8 percent and 25 percent in subsequent years. In 2010, the TAC was at a record low of 1,397 t (Ellis *et al.,* 2010). Other measures include bycatch quotas for skates and rays, whereby skates and rays may not exceed 25 percent live weight of the catch retained on board larger vessels. In Portugal, a maximum of 5 percent bycatch, in weight, of any skate species belonging to the Rajidae family is allowed per fishing trip (ICES, 2013). In 2011, Portugal adopted a law (Portaria No. 315/2011) that prohibits landing any Rajidae species during May within the nation's exclusive economic zone. In 1998, mesh size restrictions were implemented for fisheries targeting skates and rays (Ellis *et al.,* 2010). Other technical measures have been implemented that may benefit skate and ray populations, including height of static nets, delimitation of fishing grounds and depths, and duration of soak time (*e.g.,* European Council Regulations EC No 3071/95, 894/97, 850/98) (Gonçalves *et al.,* 2007). Portuguese legislation limits trammel net soak times to 24 hours, unless nets are set deeper than 300m, for which the soak time can be 72 hours (Baeta *et al.,* 2010).

Information on regulatory mechanisms is lacking for the non-EU Mediterranean Sea and northwest Africa, which represents a large part of the undulate ray's overall range.

Extinction Risk Assessment

Several demographic characteristics of the undulate ray, which are intrinsic to elasmobranchs, may increase the species' vulnerability to extinction (Dulvy *et al.,* 2014; Musick, 2014, Virginia Institute of Marine Science, personal communication). The undulate ray is a large-bodied skate that exhibits the following life-history characteristics: Delayed age to sexual maturity; long generation length; and long life span. For these reasons, we conclude that demographic characteristics related to growth rate and productivity have a moderate to high likelihood of contributing to the extinction of the undulate ray.

Historical abundance data are lacking for the undulate ray. Prior to the ban on retention, fisheries landings data indicate that it was a common species caught in the Celtic Seas off west Ireland, Portugal, and the English Channel, but was uncommon elsewhere. Fisheries dependent data from France showed a decline in undulate ray catch over the period of 1995 through 2001. In the Tagus estuary, Portugal, the undulate ray mean density was stable or slightly increasing from 1979 through 1997. In coastal waters off Spain there is no evidence of a decreasing trend in the abundance of the undulate ray in the area. Thus, in some areas population abundance may be declining, while in other areas the population appears to be stable or increasing. For these reasons, we conclude that demographic characteristics related to population abundance have a low likelihood of contributing to the extinction of the undulate ray.

The distribution of the undulate ray is patchy, and few data exist on the undulate ray population structure. Preliminary data indicate undulate rays do not migrate great distances and exhibit high site fidelity. Similar to other large skates, these life-history characteristics may increase the undulate ray's vulnerability to exploitation, reduce their rate of recovery, and increase their risk of extinction (ICES, 2007; Rogers *et al.,* 1999). However, localized declines of this species are not widespread. Based on the limited information available, we conclude spatial structure and connectivity characteristics have a low likelihood of contributing to the extinction of the undulate ray.

Because there is insufficient information on genetic diversity, we conclude this characteristic presents an unknown likelihood of contributing to the extinction of the undulate ray.

Information on specific threat factors contributing to the undulate ray extinction risk is limited. Regarding habitat related threats, several estuaries inhabited by the undulate ray have been degraded by human activities, yet others appear somewhat pristine (*e.g.,* Gironde estuary). However, systematic data are lacking on impacts to habitat features specific to the undulate ray and/or threats that result in curtailment of the undulate ray's range. For these reasons, we conclude habitat destruction, modification, and curtailment of habitat or range has an unknown to low likelihood (given some undulate ray

habitat areas are not highly impacted by human activities) of contributing to the extinction of the undulate ray. Predictions of how threats to habitat may impact the undulate ray in the foreseeable future would be largely speculative.

Overexploitation of the undulate ray by commercial fishing has occurred in some areas, but does not appear widespread. Fisheries independent data indicate undulate ray populations are uncommon in some areas, and stable or possibly increasing in other areas over time. Some mortality may also occur as a result of tags used in scientific research activities, although the number of rays tagged is relatively low and unlikely to represent a large portion of the overall population. For these reasons, we conclude that overutilization for commercial, recreational, or scientific purposes has a low likelihood of contributing to the extinction of the undulate ray. Predictions of how the threat of overutilization may impact the undulate ray in the foreseeable future would be largely speculative.

With respect to the inadequacy of existing regulatory mechanisms, retention of the undulate ray is banned in most areas of the EU. Although the ban on retention of the undulate ray is being re-examined, a precautionary approach to fisheries management is still advised for the undulate ray and is likely to continue into the foreseeable future. Other fisheries regulations for skates and rays in general will reduce the impact of fishing on the undulate ray population and are also likely to continue into the foreseeable future. In conclusion, there is a low likelihood that the inadequacy of existing regulatory mechanisms contributes or will contribute in the foreseeable future to the extinction of the undulate ray.

Conant (2015) concluded that the undulate ray is presently at a low risk of extinction, with no information to indicate that this will change in the foreseeable future. Although one of the demographic characteristics (growth rate/productivity) of the undulate ray has a moderate to high likelihood of contributing to extinction, the species does not appear to be negatively impacted by threats now, and information does not indicate the species' response to threats will change in the future. In addition, known threats pose a very low to low likelihood of contributing to the extinction of the undulate ray. After reviewing the best available scientific data and the extinction risk assessment, we agree with Conant (2015) and conclude that the undulate ray's risk of extinction is low both now and in the foreseeable future.

Significant Portion of Its Range

Though we find that the undulate ray is not in danger of extinction now or in the foreseeable future throughout its range, under the SPR Policy, we must go on to evaluate whether the species is in danger of extinction, or likely to become so in the foreseeable future, in a ''significant portion of its range'' (79 FR 37578; July 1, 2014).

The SPR Policy explains that it is necessary to fully evaluate a particular portion for potential listing under the ''significant portion of its range'' authority only if substantial information indicates that the members of the species in a particular area are likely *both* to meet the test for biological significance *and* to be currently endangered or threatened in that area. Making this preliminary determination triggers a need for further review, but does not prejudge whether the portion actually meets these standards such that the species should be listed. To identify only those portions that warrant further consideration, we will determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required (79 FR 37578, at 37586; July 1, 2014).

Thus, the preliminary determination that a portion may be both significant and endangered or threatened merely requires NMFS to engage in a more detailed analysis to determine whether the standards are actually met (79 FR 37578, at 37587). Unless both are met, listing is not warranted. The policy further explains that, depending on the particular facts of each situation, NMFS may find it is more efficient to address the significance issue first, but in other cases it will make more sense to examine the status of the species in the potentially significant portions first. Whichever question is asked first, an affirmative answer is required to proceed to the second question. *Id.* (''[I]f we determine that a portion of the range is not 'significant,' we will not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we will not need to determine if that portion was 'significant'' (79 FR 37578, at 37587). Thus, if the answer to the first question is negative—whether that regards the significance question or the status question—then the analysis concludes and listing is not warranted.

Applying the policy to the undulate ray, we first evaluated whether there is substantial information indicating that any particular portion of the species' range is ''significant.'' The undulate ray exhibits a patchy distribution throughout its range and may have been patchily distributed since at least the 1800s (ICES, 2008). It is locally abundant at sites in the central English Channel, Ireland, France, Spain, and Portugal (Ellis *et al.,* 2012). Within the Mediterranean Sea, occasional records occur off Israel and Turkey, but undulate rays are mainly recorded from the western region off southern France and the Tyrrhenian Sea (Ellis *et al.* 2012; Serena 2005). Few data exist on the undulate ray population structure and studies have just begun that would improve our understanding of whether the species migrates and mixes/interbreeds among populations. Studies to date indicate that this species does not migrate great distances and that it exhibits high site fidelity (ICES 2007; Ellis *et al.,* 2011; ICES, 2013; Delamare *et al.,* 2013).

The undulate ray is broadly distributed, with locally abundant populations in five countries, indicating a level of representation that would increase resiliency against environmental catastrophes or random variations in environmental conditions. Limited data indicate discrete populations may exist (*e.g.,* Bay of Biscay, Tralee Bay), but no data support that any particular population's contribution to the viability of the species is so important that, without the members in that portion of the range, the spatial structure of the entire species could be disrupted, resulting in fragmentation that could preclude individuals from moving and repopulating other areas. The preliminary data on possible discrete populations in some areas are too limited to support a conclusion that undulate ray populations would become isolated and fragmented, and demographic and population-dynamic processes within the species would be disrupted to the extent that the entire species would be at higher risk of extinction. Data on genetic diversity are lacking; thus, it is unknown how this characteristic would affect the species' resiliency against extinction should any particular population be extirpated. While historical abundance data are lacking, limited fishery-independent

and fishery-dependent data indicate that in some areas population abundance may be declining, but in other areas the population appears to be stable or increasing. And as noted above, we have no reason to conclude that the extirpation of any particular portion of the range would cause the entire species to be in danger of extinction now or in the foreseeable future.

Finally, threats occur throughout the species' range and there is no one particular geographic area where the species appears to be exposed to heightened threats. This, coupled with the lack of data on the undulate ray population structure and diversity, precludes us from identifying any particular portion of the species' range where the loss of individuals within that portion would adversely affect the viability of the species to such a degree as to render it in danger of extinction, or likely to be in the foreseeable future, throughout all of its range.

After a review of the best available information, we could identify no particular portion of the undulate ray range where its contribution to the viability of the species is so important that, without the members in that portion, the species would be at risk of extinction, or likely to become so in the foreseeable future, throughout all of its range. Therefore, we find that there is no portion of the undulate ray range that qualifies as ''significant'' under the SPR Policy, and thus our SPR analysis ends.

Determination

Based on our consideration of the best available data, as summarized here and in Conant (2015), we determine that the undulate ray, *Raja undulata,* faces a low risk of extinction throughout its range both now and in the foreseeable future, and that there is no portion of the undulate ray's range that qualifies as ''significant'' under the SPR Policy. We therefore conclude that listing this species as threatened or endangered under the ESA is not warranted. This is a final action, and, therefore, we do not solicit comments on it.

Greenback Parrotfish

The following section describes our analysis of the status of the greenback parrotfish, *Scarus trispinosus.*

Species Description

The greenback parrotfish, *Scarus trispinosus,* is a valid taxonomic species within the parrotfish family Scaridae. Parrotfishes are considered a monophyletic group but are often classified as a subfamily or tribe (Scarinae) of the wrasse family (Labridae). Currently, there are 100 species of parrotfish (family Scaridae) in 10 genera (Parenti and Randall, 2011; Rocha *et al.,* 2012). Parrotfishes are distinguished from other labroid fishes based upon their unique dentition (dental plates derived from fusion of teeth), loss of predorsal bones, lack of a true stomach, and extended length of intestine (Randall, 2005). The greenback parrotfish is one of the largest Brazilian parrotfish species, with maximum sizes reported around 90 cm (Previero, 2014a). The greenback parrotfish has six predorsal scales, two scales on the third cheek row, and roughly homogeneously-colored scales on flanks (Moura *et al.,* 2001). Juveniles are similarly colored to adults, but bear a yellowish area on the nape (Moura *et al.,* 2001).

Greenback parrotfish are endemic to Brazil and range from Manuel Luiz Reefs off the northern Brazilian coast to Santa Catarina on the southeastern Brazilian coast (Moura *et al.,* 2001; Ferreira *et al.,* 2010). Greenback parrotfish are widely distributed in reef environments throughout their range (Bender *et al.,* 2012). Their range includes the Abrolhos reef complex, located in southern Bahia state (southeastern Brazil), which is considered the largest and richest coral reef system in the South Atlantic (Francini-Filho *et al.,* 2008). This reef complex encompasses an area of approximately 6,000 km^2 on the inner and middle continental shelf of the Abrolhos Bank (Kikuchi *et al.,* 2003).

The majority of parrotfishes inhabit coral reefs, but many can also be found in a variety of other habitats, including subtidal rock and rocky reefs, submerged seagrass, and macroalgal and kelp beds (Comeros-Raynal, 2012). There is little evidence that scarids have strict habitat requirements (Feitosa and Ferreira, 2014). Instead, they appear to be habitat ''generalists'' and their biomass is weakly related to the cover of particular reef feeding substrata (Gust, 2002). Greenback parrotfish have been recorded dwelling in coral reefs, algal reefs, seagrass beds, and rocky reefs at depths ranging from 1 m to at least 30 m (Moura *et al.* 2001).

The following von Bertalanffy growth parameters were estimated for greenback parrotfish: $L\infty = 84.48$ cm, $K = 0.17$ and $t_0 = 1.09$ (Previero, 2014a). Previero (2014a) estimated a maximum life span for this species of 23 years. Based on a similar ''sister'' species *Scarus guacamaia,* a generation length of 7 to 10 years has been inferred for the greenback parrotfish (Padovani-Ferreira *et al.,* 2012). Previero (2014b) assessed greenback parrotfish productivity using an index designed for data deficient and small scale fisheries (from Hobday *et al.,* 2007). Productivity was measured based on the following seven attributes: Average age at maturity, average maximum age, fecundity, average size at maturity, average maximum size, reproductive strategy, and trophic level. Each attribute was given a score from 1 (high productivity) to 3 (low productivity). Data for this analysis were obtained from greenback parrotfish sampled from Abrolhos Bank artisanal fishery landings from 2010 to 2011. Productivity scores for greenback parrotfish ranged from 1 to 2 with a mean score across all seven attributes of 1.71. This overall score reflects a species with average productivity.

Parrotfish typically exhibit the following reproductive characteristics: Sexual change, divergent sexual dimorphism, breeding territories, and harems (Streelman *et al.,* 2002). Territories of larger male parrotfish have been shown to contain more females, suggesting that male size is an important factor in reproductive success (Hawkins and Roberts, 2003). Although parrotfish are usually identified as protogynous hermaphrodites (Choat and Robertson, 1975; Choat and Randall, 1986), evidence of gonochromism has been reported for three species within the parrotfish family (Hamilton *et al.,* 2007).

Freitas *et al.* (2012) studied reproduction of greenback parrotfish on Abrolhos Bank. From 2006–2013 they sampled a total of 1,182 fish, of which they collected gonads and prepared histological sections for 304. Based on a strong female biased sex ratio (282 females; 22 males), histological evidence, and the distribution of males only in the largest size classes, Freitas *et al.* (2012) concluded that the greenback parrotfish is a protogynous hermaphrodite (changing from female to male). Greenback parrotfish size at first maturity (*i.e.,* 50 percent mature) is estimated at 39.1 cm, with 100 percent maturity achieved at 48.0 cm (Freitas *et al.,* 2012). Spawning season for greenback parrotfish is thought to occur between December and March (Freitas *et al.,* 2013).

Most parrotfish species are considered ''generalists'' in feeding behavior—they can rely on food types other than algae, such as detritus, crustaceans, sponges, gorgonians, and dead or live coral (Feitosa and Ferreira, 2014). Greenback parrotfish are classified as either detritivores or roving herbivores but do occasionally graze on live coral (Francini-Filho *et al.,* 2008c; Comeros-Raynal, 2012). The foraging plasticity of greenback parrotfish acting either as scraper, excavator, or browser suggests that, depending on environmental heterogeneity, this species has the

capacity to exercise some level of selectivity over their primary food, and are thus adapted to foraging in different modes (Ferreira and Goncalves, 2006; Francini-Filho *et al.,* 2008c). Larger males will establish feeding territories which both attract harems and are grazed continuously over a period of time (Francini-Filho *et al.,* 2008c).

Population Abundance, Distribution, and Structure

There are no historical or current abundance estimates for greenback parrotfish. Several studies have reported average densities and relative abundance of greenback parrotfish at specific reef locations in Brazil using underwater visual census (UVC) techniques. Previero (2014b) reported average densities of greenback parrotfish by size class from 2001–2009 at five Abrolhos Bank sites. Average densities fluctuate considerably during this time series, with no strong trends detected for any of the size classes. For the largest size class (40–100 cm), that would be most targeted by fishing, the years 2006–2009 represent four out of the five largest mean densities of greenback parrotfish in the nine year time series. Ferreira (2005) conducted a baseline study of reef fish abundance at six different sites within the Abrolhos Reef complex in 2005. The mean density of greenback parrotfish ranged from 0.80 (Southern Reefs) to 6.04 (Timbebas Reefs) fish per 100 m^2 across the six sites. The relative abundance of greenback parrotfish among all fishery targeted species ranged from 3.05 percent (Southern Reefs) to 15.25 percent (Timbebas Reefs) (Ferreira, 2005). Francini-Filho and Moura (2008b) found that greenback parrotfish accounted for 28.3 percent of the total fish biomass across a diverse range of Brazilian reefs surveyed from 2001–2005. On the Itacolomis Reef alone, greenback parrotfish accounted for 37.4 percent of the total fish biomass and 45.6 percent of the total target fish biomass (Francini-Filho and Moura, 2008a). Kikucki *et al.* (2012) conducted a rapid assessment of Abrolhos reef fish communities within the Abrolhos National Marine Park and on the fringing reef off Santa Bárbara Island. Average mean density recorded for greenback parrotfish was 11.8 individuals per 100 m^2 and this species was ranked 8th in mean density among all species recorded.

Two studies reported mean densities of greenback parrotfish on northeastern Brazilian reefs. In 2006, Medeiros *et al.* (2007) evaluated reef fish assemblage structure on two shallow reefs located 1.5 km off the coast of João Pessoa in Paraíba state. Greenback parrotfish densities were lower on the recreationally exploited reefs (0.15 fish per 100 m^2) than on unexploited reefs (0.85 fish per 100 m^2). In this study, greenback parrotfish accounted for 0.04 percent of all fish recorded on the exploited reefs and 0.56 percent of all fish recorded on the unexploited reefs. Feitosa and Ferreira (2014) studied reef fish distribution on the shallow, fringing reef complex at Tamandare (northeastern coast) between December 2010 and May 2012. Four visually different habitats were selected for sampling: Macroalgal beds; back reef; reef flat; and fore reef. Greenback parrotfish were only observed on the fore reef, where the mean density was 2.0 fish (standard error +/− 0.55) per 100 m^2.

Results indicate that the greenback parrotfish is not only the most abundant species of parrotfish on Abrolhos Bank, but is also one of the dominant reef species overall in terms of fish biomass at some sites within this reef complex (Ferreira, 2005; Francini-Filho and Moura, 2008b; Kikucki *et al.* 2012). Based on limited data, mean densities and relative abundance of greenback parrotfish reported from studies on northeastern Brazilian reefs were generally lower that those reported on Abrolhos reefs (Medeiros *et al.,* 2007; Feitosa and Ferreira, 2014). It is unclear whether differences in greenback parrotfish mean densities across study sites are due primarily to different levels of fishery exploitation or to the natural distribution of this species.

Time series datasets for detecting trends in greenback parrotfish abundance over time are limited. Three studies (Francini-Filho and Moura, 2008b; Bender *et al.,* 2014; Previero, 2014b) reported mean densities at particular reef sites over multiple years. Only one of these studies indicated a declining trend in greenback parrotfish abundance over time (Bender *et al.,* 2014). UVC surveys, combined with interviews with local fishermen, suggest that the greenback parrotfish was once abundant at Arraial do Cabo (Rio de Janeiro state) and are now thought to be locally extirpated from this area (Floeter *et al.,* 2007; Bender *et al.,* 2014). Arraial do Cabo is a relatively small (1,000 m^2) marine extractive reserve with heavy exploitation due to its proximity to a traditional fishing village and general lack of enforcement of fishing regulations (Floeter *et al.,* 2006; Bender *et al.,* 2014).

Summary of Factors Affecting the Greenback Parrotfish

Available information regarding current, historical, and potential future threats to the greenback parrotfish was thoroughly reviewed (Salz, 2015). We summarize information regarding threats below according to the factors specified in section 4(a)(1) of the ESA. There is very little information available on the impact of ''Disease or Predation'' or ''Other Natural or Manmade Factors'' on greenback parrotfish survival. These subjects are data poor, but there are no serious or known concerns raised under these threat categories with respect to greenback parrotfish extinction risk; therefore, we do not discuss these further here. See Salz (2015) for additional discussion of all ESA section 4(a)(1) threat categories.

Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The adverse effects of global coral loss and habitat degradation (including declines in species abundance and diversity, reduced physiological condition, decreased settlement, change in community structure, etc.) on species dependent upon coral reefs for food and habitat have been well documented (Comeros-Raynal *et al.,* 2012). Anthropogenic threats to Brazil's coastal zone include industrial pollution, urban development, agricultural runoff, and shrimp farming (Diegues, 1998; Leão and Dominguez, 2000; Cordell, 2006).

In 2008, as part of the International Coral Reef Initiative, coral reef experts worldwide were asked to assess the threat status of reefs in their regions due to human pressures and global climate change (Wilkinson, 2008). For purposes of this assessment, reefs were categorized into one of three groups: (1) Not threatened—reefs at very low risk of decline in the short term (5–10 years); (2) Threatened—reefs under high risk of decline in the mid-long term (> 10 years); or (3) Critical—reefs under high risk of decline in the short term (5–10 years). In the Atlantic Eastern Brazil Region, experts classified 40 percent of the reefs as ''Not Threatened,'' 50 percent as ''Threatened,'' and 10 percent as ''Critical'' (Wilkinson, 2008).

The Brazilian National Coral Reef Monitoring Program, which includes all major reef areas in Brazil, conducts annual surveys at 90 different sites within 12 reef systems (Wilkinson, 2008). Reef Check (*www.reefcheck.org*) compatible methodology was used to monitor eight locations in northeastern and eastern Brazil from 2003 to 2008 (Wilkinson, 2008). Results showed that

due to chronic land-based stresses, the nearshore, shallow reefs, less than 1 km from the coast, were in poor condition, with less than 5 percent mean coral cover; reefs further than 5 km from the coast, or deeper than 6 m, showed an increase in algal cover but also some local coral recovery (Wilkinson, 2008). Atlantic and Gulf Rapid Reef Assessment (AGRRA; *www.agrra.org*) monitoring methods have been used at five eastern Brazilian reefs since 1999. Monitoring via the AGRRA methodology showed that reefs less than 5 km from the coast were in poor condition, with a mean of less than 4 percent coral cover and more than 40 percent cover of macroalgae (Wilkinson, 2008). The poor condition of nearshore reefs was attributed to damage from sewage pollution, increased sedimentation and water turbidity, as well as damage by tourists and over-exploitation (Wilkinson, 2008). Reefs more than 5 km offshore and in no-take reserves had more than 10 percent coral cover and less than 10 percent algal cover (Wilkinson, 2008). Francini-Filho and Moura (2008b) found up to 30 times greater biomass of target fish on deep reefs (25–35 m) on the Abrolhos Bank compared to reefs in shallow coastal areas.

The Itacolomis reef, the largest reef complex within the Corumbau Marine Extractive Reserve on Abrolhos Bank, has a rich coral fauna as well as relatively high cover, particularly of *Orbicella cavernosa, M. brazilensis,* and *Siderastrea stellata,* which are biologically representative of the range of Abrolhos corals (Cordell, 2006). Biological surveys of species diversity, coralline cover, and condition of colonies, carried out before and after the creation of the reserve in 2000 indicated that the Itacolomis reefs were still in a good state of conservation as of 2006 (Conservation International—Brazil, 2000; Conservation International—Brazil, 2006).

Coral reef area loss and decline is widespread globally, including many reef areas along the Brazilian coastline. However, there is considerable variation in the reliance of different species on coral reefs based on species' feeding and habitat preferences—*i.e.,* some species spend the majority of their life stages on coral reef habitat, while others primarily utilize seagrass beds, mangroves, algal beds, and rocky reefs. The greenback parrotfish is considered a ''mixed habitat'' species, found on rocky reefs, algal beds, seagrass beds, and coral reefs (Comeros-Raynal *et al.,* 2012; Freitas *et al.,* 2012), that feeds mainly on detritus and algae and only occasionally grazes on live coral (Francini-Filho *et al.* 2008c).

Impacts of ocean acidification to coral abundance and/or diversity are arguably significant; however, the direct linkages between ocean acidification and greenback parrotfish extinction risk remain tenuous. As discussed above, the ability of greenback parrotfish to occupy multiple habitat types should make this species less vulnerable to climate change and ocean acidification compared to other reef species that are more dependent on coral for food and shelter. Similarly, there is no evidence directly linking increased ocean temperatures or sea level rise with greenback parrotfish survival.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Several studies suggest that overutilization of fish populations is leading to significant changes in the community structure and balance of Brazilian reef ecosystems (Costa *et al.,* 2003; Gasparini *et al.,* 2005; Ferreira and Maida, 2006; Previero, 2014b). An estimated 20,000 fishermen currently use the natural resources of Brazil's Abrolhos Region as their main source of income (Dutra *et al.,* 2011). Their activity is predominantly artisanal, performed with small and medium-sized boats. Small-scale artisanal fisheries account for an estimated 70 percent of total fish landings on the eastern Brazilian coast (Cordell, 2006), where coral reefs are concentrated (Leaõ *et al.,* 2003). A growing number of larger and industrial fishing boats have moved into this region in the last few years, increasing the pressure on target species and competing with artisanal fishing (Francini-Filho and Moura, 2008b; Dutra *et al.,* 2011).

Greenback parrotfish were not considered a traditional fishery resource by most fishermen in Brazil as recently as 20 years ago (Francini-Filho and Moura, 2008b). Although fishermen from some localities have reported landing greenback parrotfish as far back as the late 1970s (Bender *et al.,* 2014; Previero, 2014b), the importance of this species to Brazil's artisanal fisheries has increased greatly only in the past two decades or so. Since about the mid-1990s, parrotfish have increasingly contributed to fishery yields in Brazil, as other traditional resources such as snappers, groupers, and sea basses are becoming more scarce (Costa *et al.,* 2005; Previero, 2014b). This is part of a global phenomenon described by Pauly *et al.* (1998) as ''fishing down the food web.'' As populations of top oceanic predators collapse due to overfishing, other large-bodied species at lower trophic levels become new targets. Some boats now exclusively target these non-traditional reef fishes, whereas others target them only during periods of low productivity or during closed seasons of higher priority target species (Cunha *et al.,* 2012). Greenback parrotfish are now considered an important fishery resource that is sold to regional markets in nearby large cities (*e.g.,* Vitoria and Porto Seguro) and even to overseas markets (Francini-Filho and Moura, 2008b; Cunha *et al.,* 2012; Previero, 2014b). In general, parrotfishes may be highly susceptible to harvest due to their conspicuous nature, relatively shallow depth distributions, small home ranges, and vulnerability at night (Taylor *et al.,* 2014). Primary fishing methods used in Brazil to capture parrotfish are spearfishing and seine nets (Ferreira, 2005; Araujo and Previero, 2013).

Previero (2014b) conducted a quantitative assessment of the greenback parrotfish commercial fishery on Abrolhos Bank. Fishery dependent data were collected over 13 months between 2010 and 2011 from the main fishing ports that exploit reef fish: Caravelas; Prado; Corumbau Marine Extractive Reserve (MERC); and Alcobaca. The Alcobaca fleet was characterized by relatively large vessels (some over 12 m) equipped with freezer space for the preservation of fish over long periods. These vessels targeted parrotfish on more distant fishing grounds during extended fishing trips (average duration 11.7 days). By comparison, fishermen from Caravelas mainly took day trips targeting greenback parrotfish closer to shore and from smaller vessels. Prado fishing vessels also traveled longer distances, but greenback parrotfish were considered a less important target species by fishermen at this port (compared to either Alcobaca or Caravelas) and landings were considerably lower as a result. Alcobaca fishermen caught greenback parrotfish only with harpoons, often with air compressors to increase bottom time at greater depths; Caravelas fishermen used a combination of harpoons and nets. Greenback parrotfish landings ranged in size from 28 cm to 91 cm TL and the fishery was dominated by 8 and 9 year-old fish. The oldest fish sampled was 11 years old—less than half the estimated maximum life span of 23 years for this species (Previero, 2014a). Significantly larger specimens were landed at Alcobaca compared to Caravelas (Previero, 2014b). Length frequency data suggest that a relatively large portion of the greenback parrotfish

landings, particularly from the near-shore Caravelas fleet, were fish that had not yet reached maturity (Freitas *et al.,* 2012; Previero, 2014b). Total landings of greenback parrotfish recorded for 13 months at Caravelas was 24.80 metric tons (average 1.90 tons per month). Total landings for 7 months of monitoring at the MERC and Alcobaca were 1.93 and 9.21 metric tons, respectively (average 0.27 tons per month at MERC and 1.31 tons per month at Alcobaca). The CPUE for Caravelas ranged from 0.911 to 1.92 kg per fisherman/hour/day and for the MERC from 0.65 to 1.25 kg per fisherman/hour/day. The following parameters were estimated for the Abrolhos Bank greenback parrotfish fishery: Fishing mortality = 0.68; natural mortality = 0.19; total mortality = 0.87; and survival rate = 0.42 (Previero, 2014b).

The potential vulnerability of the greenback parrotfish population to commercial fishery exploitation was evaluated by Previero (2014b) using a Productivity and Susceptibility Analysis (PSA) index designed for data deficient and small scale fisheries (Hobday *et al.,* 2007). The PSA is a semi-quantitative approach based on the assumption that the vulnerability to a species will depend on two characteristics: (1) The species' productivity, which will determine the rate at which the population can sustain fishing pressure or recover from depletion due to the fishery; and (2) the susceptibility of the population to fishing activities (Hobday *et al.,* 2007). Seven productivity attributes (described in ''Species Description'' section above) and the following four susceptibility attributes were evaluated: (1) Availability—overlap of fishing effort with the species' distribution, (2) Encounterability—the likelihood that the species will encounter fishing gear that is deployed within its geographic range, (3) Selectivity—the potential of the gear to capture or retain the species and the desirability (value) of the fishery, and (4) Post Capture Mortality—the condition and subsequent survival of a species that is captured and released (or discarded) (Hobday *et al.,* 2007). Susceptibility attributes were derived mainly from sampling data obtained at major ports and from interviews with fishermen. The productivity and susceptibility rankings determine relative vulnerability and are each given a score: 1 to 3 for high to low productivity, respectively; and 1 to 3 for low to high susceptibility, respectively. The average productivity score of greenback parrotfish on Abrolhos Bank across seven different attributes was 1.71 and the average susceptibility score across four attributes was 3.00. This combination of very high susceptibility and average productivity places the greenback parrotfish in the PSA zone of ''high potential risk'' of overfishing. The PSA results, in combination with an estimated high fishing mortality, strongly suggest that greenback parrotfish are heavily exploited by artisanal fishing on Abrolhos Bank (Previero, 2014b).

Greenback parrotfish may be particularly vulnerable to spearfishing, due to their size and reproductive traits. Spearfishing is a highly size-selective, efficient gear—fishermen target individual fish, typically the largest, most valuable individuals. For protogynous hermaphrodites, the largest individuals are (in order) terminal males, individuals undergoing sexual transition, and the largest females. Continued removal of terminal males, individuals undergoing sexual transition, and the largest females at high rates can lead to decreased productivity and increased risk of extinction over time. Thus, protogynous hermaphrodites, such as the greenback parrotfish, may be particularly susceptible to over-fishing (Francis, 1992; Hawkins and Roberts, 2003). With continued heavy exploitation from fishing, it is plausible that the proportion of male greenback parrotfish could fall below some critical threshold needed for successful reproduction in some localities. If sex change is governed by social (exogenous) mechanisms, then transition would be expected to occur earlier in the life cycle when larger individuals are selectively removed by fishing (Armsworth, 2001; Hawkins and Roberts, 2003). This would cause the mean size and age of females to decrease for protogynous species and could result in a reduction in egg production (Armsworth, 2001). Sexual transition takes time and energy, including energy expended on social interactions and competition among females vying for dominance. Since removal of terminal males by fishing will result in more sexual transitions, overall population fitness may be negatively impacted.

Greenback parrotfish are also targeted by recreational spearfishermen in Brazil, but the impact of this activity on the resource is largely unknown (Costa Nunes *et al.,* 2012). Medeiros *et al.* (2007) studied the effects of other recreational activities (*i.e.,* snorkeling, SCUBA, and fish feeding) on a tropical shallow reef off the northeastern coast of Brazil by comparing its fish assemblage structure to a nearby similar control reef where tourism does not occur. Greenback parrotfish were found to be less abundant on the recreationally exploited reef compared to the control reef (0.15 versus 0.85 individuals per 100 m^2), although the relative abundance of this species was very low on both reefs (0.04 percent versus 0.56 percent of all fish individuals recorded) and results were based on very small sample sizes of fish observed.

Several studies have linked localized declines of greenback parrotfish populations to increased fishing effort (Floeter *et al.,* 2007; Pinheiro *et al.,* 2010; Costa Nunes *et al.,* 2012; Bender *et al.,* 2014). As previously discussed (see above in ''Population Abundance, Distribution, and Structure''), studies suggest that the greenback parrotfish was once abundant at Arraial do Cabo and are now thought to be locally extirpated from this small area due to fishing pressure (Floeter *et al.,* 2007; Bender *et al.,* 2014). Pinheiro *et al.* (2010) studied the relationships between reef fish frequency of capture (rarely, occasionally, or regularly), intensity at which species are targeted by fisheries (highly targeted, average, or non-targeted), and UVC counts off Franceses island (central coast of Brazil) between 2005 and 2006. Greenback parrotfish were one of 19 species classified as both ''highly targeted'' (by spearfishing) and ''rarely caught.'' The authors attributed these results to the overexploitation by fishing of the Franceses island reef fish community. Similarly, Feitosa and Ferreira (2014) attributed low observed abundance of greenback parrotfish outside of no-take areas on Tamandare reefs (northeastern coast of Brazil) to heavy fishing pressure in this region.

Artisanal and commercial fishing pressure on greenback parrotfish will likely increase in the future as the country's coastal population grows and more traditional target species become less available due to overfishing. As easily accessible nearshore and shallower reefs become more depleted, fishing effort will likely shift to currently less-utilized, more remote, and deeper reefs. This is already evident in landings for the fishing port of Alcobaca, where a fleet of larger, freezer-equipped vessels return from long duration trips (up to several weeks) specifically targeting large greenback parrotfish on offshore reefs (Previero, 2014b). This level of fishing capacity and sophistication suggests that, over time, greenback parrotfish may become over-exploited throughout their range, including in more remote areas that were at one time considered inaccessible to local fishermen. This is

supported by the PSA results, which rated greenback parrotfish as ''highly susceptible'' to overfishing on all four susceptibility criteria: Availability, encounterability, selectivity, and post capture mortality (Previero, 2014b).

It is likely that greenback parrotfish are being overfished (Previero, 2014b) and that overfishing will continue into the future unless additional regulatory mechanisms are implemented and adequately enforced. In one very small area (Arraial do Cabo), fishing has led to the local extirpation of this species, although the contribution of this area to the population as a whole is likely minimal. As a protogynous hermaphrodite, the greenback parrotfish may be more susceptible to fishing methods that selectively target the largest individuals in the population. In addition, as one of the largest parrotfish species and with relatively late maturation, greenback parrotfish may be more vulnerable to overexploitation than smaller, faster-maturing parrotfish species (Taylor *et al.,* 2014). However, the lack of baseline information and a time series of fishery dependent data, combined with limitations of the available studies, make it difficult to estimate the magnitude of this threat or to quantitatively assess its impact on greenback parrotfish abundance.

Inadequacy of Existing Regulatory Mechanisms

Several marine protected areas (MPAs) have been established in Brazil on reefs inhabited by greenback parrotfish. Brazil's MPAs vary considerably in terms of size, ecosystem type, zoning regulations, management structure, fishing pressure, and level of compliance and enforcement. The Abrolhos National Marine Park was established by the Brazilian government in 1983 as a ''no-take'' protected area with limited use allowed by non-extractive activities (Cordell, 2006). Effective conservation policy was not implemented in the national park until the mid-1990s (Ferreira, 2005). The park, which covers an area of approximately 88,000 hectares, is divided into two discontinuous portions: (1) The coastal Timbebas Reef, which is considered poorly enforced, and (2) the offshore reefs of Parcel dos Abrolhos and fringing reefs of the Abrolhos Archipelago, which are more intensively enforced (Ferreira and Goncalves, 1999; Francini-Filho *et al.,* 2013). The Corumbau Marine Extractive Reserve (MERC), located in the northern portion of Abrolhos Bank in eastern Brazil, was established in 2000 and covers 89,500 hectares (930 km^2) of nearshore habitats and coralline reefs (Francini-Filho *et al.,* 2013). Extractive reserves are co-managed, multi-use areas in Brazil established by the initiative of local communities with support from the Federal Protected Areas Agency (ICMBio) and non-governmental organizations (Francini-Filho and Moura, 2008a). Exploitation of marine resources within the MERC is only allowed for locals, with use rules (*e.g.,* zoning and gear restrictions) defined by a deliberative council made up of more than 50 percent fishermen (Francini-Filho and Moura, 2008a). Handlining, spearfishing, and various types of nets are allowed, while destructive fishing practices (*e.g.,* drive-nets above reefs and collections for aquarium trade) are prohibited (Francini-Filho and Moura, 2008a). The MERC management plan, approved in November 2001, created several no-take zones; the main one (~ 10 km^2) covering about 20 percent of the largest reef complex within the MERC-Itacolomis Reef (Francini-Filho and Moura, 2008a). Besides those on Abrolhos Bank, there are a few other no-take reserves with reef habitat within the greenback parrotfish range. Laje de Santos State Marine Park on the southeastern coast of Brazil (São Paulo state) is a no-take reserve consisting mainly of rocky reefs (Wilkinson, 2008; Luiz *et al.,* 2008). Established in 1993, Laje de Santos was initially considered a ''paper park'' with inadequate (or non-existent) enforcement to eradicate poaching in this heavily populated region (Luiz *et al.,* 2008). In the past 10 years, significant efforts have been made to protect the park from illegal and extractive activities (Luiz *et al.,* 2008). Costa dos Corais, located in Northern Brazil (Pernambuco state), was established in 1997 as a sustainable multi-use MPA. This area includes coral reef habitat and is used for tourism, fisheries, and coral reef conservation (Gerhardinger *et al.,* 2011).

Several studies have evaluated the effectiveness of Brazil's MPAs in protecting and restoring populations of overexploited reef species. Francini-Filho and Moura (2008a) estimated fish biomass and body size within the Itacolomis Reef no-take zone and at unprotected sites on the reef before (2001) and after initiation of protection (2002–2005). Greenback parrotfish was the dominant species found on the Itacolomis Reef in terms of biomass (37.4 percent of total biomass), and considered a major fishery resource in the study area. Biomass of this species increased significantly inside the reserve and also in unprotected reefs close (0–400 m) to its boundary (*i.e.,* ''spillover effect'') between 2001 and 2002, soon after the reserve establishment and banning of the parrotfish fishery from the entire MERC (Francini-Filho and Moura, 2008a). The initial greenback parrotfish biomass increase on the unprotected reefs was followed by a statistically significant decrease from 2002 to 2003 after local fishermen decided to re-open the parrotfish fishery. Greenback parrotfish biomass inside the no-take reserve also decreased starting in 2004, although this decline was not statistically significant. The authors attributed this decline to increased poaching by some local spearfishermen who were strongly resistant to regulatory controls despite the apparent positive effects on fish biomass in the first few years after the reserve was established.

Francini-Filho and Moura (2008b) compared fish biomass from 2001–2005 across several reef areas with different levels of protection. Their results varied depending on species considered and were sometimes confounded by year effects. For the greenback parrotfish, biomass was statistically higher within the newly established Itacolomis Reef's no-take reserve than in any of the following areas: Itacolomis Reef multi-use area, no-take reserves within Abrolhos National Marine Park, and other open access areas. Greenback parrotfish biomass within the Abrolhos National Marine Park no-take areas was not statistically different than biomass found at either the multi-use or open access sites surveyed. This may be partially due to the lack of enforcement at the Timbebas Reef no-take area (located within the national park) for many years after it was established in 1983 (Floeter *et al.,* 2006).

Floeter *et al.* (2006) compared abundances of reef fishes across areas with varying levels of protection and enforcement along the Brazilian coastline. They found that heavily fished species, including greenback parrotfish, were significantly more abundant in areas with greater protection. Study sites with full protection (*i.e.,* no-take areas with adequate enforcement and/or little fishing pressure) also produced significantly more large parrotfish (≤21 cm) than did sites with only partial protection from fishing (Floeter *et al.,* 2006). Similarly, Ferreira (2005) found that reefs within the fully protected and enforced areas of the Abrolhos National Marine Park contained greater numbers of large-sized parrotfish compared to unprotected reefs on Abrolhos Bank.

The studies cited above provide ample evidence that, when fully protected and enforced, no-take reserves

can have positive effects on greenback parrotfish abundance and size within the reserve boundaries, and possibly outside due to ''spillover'' effects. For MPAs to work as a fishery management tool, fully protected (no-take) areas must be sufficiently large in area and include a variety of habitats critical to the various life history stages of the target species (Dugan and Davis, 1993). MPAs cover an estimated 3.85 percent of the greenback parrotfish total range (Comeros-Raynal *et al.,* 2012). UVC data indicate that within this range, the reefs with the greatest abundance of greenback parrotfish are located within Abrolhos Bank (Ferreira, 2005; Francini-Filho and Moura, 2008a). At present, about 2 percent of the Abrolhos Bank is designated as a ''no-take'' marine reserve (Francini-Filho and Moura, 2008a). Afonso *et al.* (2008) found that for the parrotfish *Sparisoma cretense* in the Azore Islands, haremic adults displayed very high site fidelity with minimal dispersion from established male territories that could last for several years. This study suggests that a network of small to medium sized, well-enforced no-take marine reserves can effectively protect ''core'' populations of reef fish (Afonso *et al.,* 2008) and possibly serve as a buffer from extinction risk.

Magris *et al.* (2013) conducted a gap analysis to evaluate how well MPAs in Brazil meet conservation objectives. Coral reef ecosystems were subdivided into four ecoregions: Eastern Brazil, Northeastern Brazil, Amazon, and Fernando de Noronha and Atoll das Rocas islands (note: Greenback parrotfish are not found in the latter two ecoregions). No-take areas exceeded 20 percent coverage in three out of the four coral reef ecoregions, but accounted for less than 2 percent of coral reef areas in Northeastern Brazil. While a large portion of coral reef ecosystems in Brazil are designated as no-take, only a few of these areas are greater than 10 km^2 (Magris *et al.,* 2013). Pressey *et al.* (2014) followed up on the Magris *et al.* (2013) study by more finely delineating coral reef ecosystems based on reef type (nearshore bank, bank off the coast, fringing, patch, mushroom reef, and atoll), depth (deep and shallow), and tidal zone (subtidal and intertidal). They found that protection of coral reef ecosystems by no-take areas was very uneven across the 23 ecosystems delineated. Coverage ranged from 0 percent to 99 percent with a mean of 28 percent, with 13 of 23 ecosystems having no coverage (mostly nearshore banks and patch reefs located in the Northeastern ecoregion). Vila-Nova *et al.* (2014) developed a spatial dataset that overlays Brazil's reef fish hotspots with MPA coverage and protection levels. Hotspots were identified as areas with either high species richness, endemism, or number of threatened species. Results showed a mismatch between no-take coverage and reef hotspots in the Northeast region from Paraíba state to central Bahia state. Reef fish hotspots for total richness, endemics, and targeted species were found in this region which does not have any designated no-take areas (only multi-use MPAs). The state of Espírito Santo was also identified as a hotspot for endemic, threatened, and targeted reef fish species despite being the least protected region along the Brazilian coast.

Several researchers have noted the prevalence of high levels of poaching and inadequate enforcement within Brazilian ''no-take'' reserves (Ferreira and Goncalves, 1999; Cordell, 2006; Floeter *et al.,* 2006; Wilkinson, 2008; Francini-Filho and Moura, 2008a; Luiz *et al.,* 2008; Francini-Filho *et al.,* 2013). Although these reports are based largely on anecdotal information, and quantitative data are lacking, illegal fishing activity is consistently cited as a factor that could undermine the effectiveness of ''no-take'' marine reserves in Brazil. Management and enforcement of at least some Brazilian no-take areas has been reported as improving within the past decade (Luiz *et al.,* 2008; Floeter *et al.,* 2006). The success of a national MPA system in Brazil will depend on the capacity to overcome pervasive lack of enforcement, frequent re-structuring and re-organization of government environmental agencies, and difficulties with the practicality of implementing management plans (Wilkinson, 2008).

Aside from establishing no-take protected areas, few actions have been taken by the Brazilian government to manage reef fisheries. Traditional fishery management controls (*e.g.,* annual quotas, daily catch limits, limited entry, seasonal closures, and size limits) on coastal fisheries are typically not implemented either at the state or national level (Cordell, 2006; Wilkinson, 2008). For years, the only marine management practices that limited access to fishing grounds were unofficial, informal ones: Local sea tenure systems based on artisanal fishers' knowledge, kinship and social networks, contracts, and a collective sense of ''use rights'' (Begossi, 2006; Cordell, 2006). While local sea tenure systems and informal agreements, such as the short-lived ban on parrotfish harvest within the MERC (Francini-Filho and Moura, 2008a), could reduce the threat of overexploitation, without legal authority and regulatory backing, such arrangements may be viewed as tenuous or unstable.

Extinction Risk Assessment

Studies indicating a declining trend in greenback parrotfish abundance over time are lacking. Increased fishing pressure on this species in the past two decades has likely reduced overall abundance (Previero, 2014b), but available data are insufficient to assess the magnitude of this decline. Despite the likely negative impact of fishing on abundance, mean densities recorded for greenback parrotfish are very high when compared to mean densities recorded for similar sized species in the north-western tropical Atlantic (Debrot *et al.,* 2007). In parts of their range, greenback parrotfish are still a commonly occurring species and represent a large proportion of the total fish biomass on some reefs. UVC time series data indicate that greenback parrotfish have been locally extirpated from a relatively small reef near the species' southern range (Rio de Janeiro state). However, the impact of this localized decline on the greenback parrotfish population as a whole may be small. Based on the available scientific and commercial information, we conclude that it is unlikely that demographic factors related to abundance contribute significantly to the current extinction risk of this species.

As a large-bodied, protogynous hermaphrodite with relatively late maturation, greenback parrotfish may be particularly susceptible to the effects of fishing on population growth rate or productivity. However, information indicating a significant decline in greenback parrotfish productivity is lacking. Greenback parrotfish productivity scores based on a Productivity and Susceptibility Analysis (PSA) are indicative of a species with average productivity (Previero, 2014b). Therefore, we conclude that it is unlikely that demographic factors related to growth rate/productivity contribute significantly to the current extinction risk of this species. Based on the limited available information, we find no evidence to suggest that demographic factors related to spatial structure/connectivity pose an extinction risk to the greenback parrotfish. This species is widely distributed throughout its range, can recruit to a variety of habitats, and shows little evidence of population fragmentation. We conclude that it is very unlikely that demographic factors related to spatial structure/connectivity

contribute significantly to the current extinction risk of this species. Because there is insufficient information on genetic diversity, we conclude that this factor presents an unknown likelihood of contributing to the extinction of the greenback parrotfish.

Although there is evidence that some portion of greenback parrotfish habitat has been modified and degraded, studies indicating that habitat associated changes are contributing significantly to the extinction risk of this species are lacking. Therefore, based on the available scientific and commercial information, we conclude that it is unlikely that the threat of destruction, modification, or curtailment of greenback parrotfish habitat or range contributes or will contribute significantly to the extinction risk of this species either now or in the foreseeable future.

The cumulative research indicates that greenback parrotfish are heavily exploited by fishing throughout much of their range, fishing pressure has reduced the abundance of greenback parrotfish, and in some localities the reduction has been significant. Based on the information available, and taking into account the scientific uncertainty associated with this threat, we conclude that the threat of overutilization from artisanal and commercial fishing is somewhat likely to contribute to the extinction risk of this species both now and in the foreseeable future. Given the systemic problems associated with enforcement of no-take MPAs in Brazil and the general lack of traditional fishing regulations designed to limit catch and effort of reef fishes, we also conclude that the threat of inadequate existing regulatory mechanisms is somewhat likely to contribute to the extinction risk of this species both now and in the foreseeable future.

The extinction risk analysis of Salz (2015) found that the greenback parrotfish currently faces a low risk of extinction throughout its range. Fishing overutilization and the inadequacy of existing fishing regulations were identified as threats that are somewhat likely to contribute to the risk of greenback parrotfish extinction. However, while fishing has resulted in a decline in abundance, greenback parrotfish are still a commonly occurring species on many Brazilian reefs, and represent a relatively large proportion of the total fish biomass on some reefs. All of the demographic factors evaluated were categorized as either unlikely or very unlikely to contribute significantly to the current extinction risk. There are no indications that the greenback parrotfish is currently at risk of extinction based on demographic viability criteria. After reviewing the best available scientific data and the extinction risk evaluation, we agree with Salz (2015) and conclude that the present risk of extinction for the greenback parrotfish is low.

Salz (2015) found that the greenback parrotfish's risk of extinction in the foreseeable future is between low and moderate. It is likely that fishing overutilization will further reduce greenback parrotfish abundance in the future, thus increasing the overall risk of extinction. However, as mentioned above, there are no indications that the greenback parrotfish is at risk of extinction based on demographic viability criteria. This species is still relatively abundant in parts of its range, and the available information does not indicate that fishing overutilization will reduce abundance to the point at which the greenback parrotfish would be in danger of extinction in the foreseeable future. Based on the best available scientific data and the extinction risk evaluation, we agree with Salz (2015) and conclude that the greenback parrotfish's risk of extinction in the foreseeable future is between low and moderate—*i.e.,* greater than low but less than moderate.

Significant Portion of Its Range

Though we find that the greenback parrotfish is not in danger of extinction now or in the foreseeable future throughout its range, under the SPR Policy, we must go on to evaluate whether the species is in danger of extinction, or likely to become so in the foreseeable future, in a significant portion of its range (79 FR 37578; July 1, 2014). To make this determination, we followed the SPR Policy, as described above in the ''Significant Portion of Its Range'' section for the undulate ray, and first evaluated whether substantial information indicates that the members of the species in a particular area are likely both to meet the test for biological significance and to be currently endangered or threatened in that area.

Applying the policy to the greenback parrotfish, we first evaluated whether there is substantial information indicating that any particular portion of the species' range is ''significant.'' Greenback parrotfish are found only in Brazilian waters and are considered widely distributed throughout their range from the Manuel Luiz Reefs off the northern coast to Santa Catarina on the southeastern coast (Moura *et al.,* 2001; Ferreira *et al.,* 2010; Bender *et al.,* 2012). Although studies on greenback parrotfish spatial structure and connectivity are lacking, there is no information indicating that the loss of any particular portion of its range would isolate the species to the point where the remaining portions would be at risk of extinction from demographic processes. Similarly, we did not find any information suggesting that loss of any particular portion would severely fragment and isolate this species to the point that vulnerability to threats would increase as a result. The ability of greenback parrotfish to recruit to a variety of habitats (Moura *et al.,* 2001; Comeros-Raynal, 2012) may improve spatial connectivity among local reef populations. Parrotfish in general exhibit broad larval dispersal capabilities which should aid in the repopulation of reefs where they have been eliminated due to fishing. There is no information indicating that the loss of genetic diversity from one portion of the greenback parrotfish range would result in the remaining population lacking enough genetic diversity to allow for adaptations to changing environmental conditions. There is also no evidence of a particular portion of the greenback parrotfish range that is critically important to specific life history events (*e.g.,* spawning, breeding, feeding) such that the loss of that portion would severely impact the growth, reproduction, or survival of the entire species.

After a review of the best available information, we could identify no particular portion of the greenback parrotfish range where its contribution to the viability of the species is so important that, without the members in that portion, the species would be at risk of extinction, or likely to become so in the foreseeable future, throughout all of its range. Therefore, we find that there is no portion of the greenback parrotfish range that qualifies as ''significant'' under the SPR Policy, and thus our SPR analysis ends.

Determination

Based on our consideration of the best available data, as summarized here and in Salz (2015), we determine that the present risk of extinction for the greenback parrotfish is low, and that the greenback parrotfish's risk of extinction in the foreseeable future is between low and moderate—*i.e.,* greater than low but less than moderate, and that there is no portion of the greenback parrotfish's range that qualifies as ''significant'' under the SPR Policy. We therefore conclude that listing this species as threatened or endangered under the ESA is not warranted. This is a final action, and, therefore, we do not solicit comments on it.

References

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA) (See NOAA Administrative Order 216–6).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 5, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–11305 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Grant Exclusive License

AGENCY: National Oceanic and Atmospheric Administration, NOAA, Department of Commerce DOC.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), intends to grant to Handix, LLC of Boulder, Colorado, an exclusive global license to manufacture and distribute its ''PRINTED OPTICAL SPECTROMETER (POPS), and its ''PORTABLE AEROSOL GENERATOR''.

DATES: Comments must be received on or before June 5, 2015.

ADDRESSES: Send comments to NOAA Technology Partnerships Office, SSMC4 Room 7605, 1305 East West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Derek Parks, NOAA Technology Transfer Program Manager, at: *derek.parks@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this invention are assigned to the United States of America, as represented by the Secretary of Commerce. It is in the public interest to so license this invention, as Handix, LLC of Boulder, Colorado, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the NOAA Technology Partnerships Office receives written evidence and argument which establishes the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: May 4, 2015.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–11131 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2015–0031]

Extension of the Period for Comments on Enhancing Patent Quality

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Extension of the comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) recently launched a comprehensive and enhanced quality initiative. This initiative began with a request for public comments on a set of proposals for enhancing patent quality through submission of written comments. Public input on this initiative was also received through discussion at a two-day ''Quality Summit,'' held on March 25 and 26, 2015, at the USPTO headquarters in Alexandria, Virginia. The USPTO is extending the comment period to ensure that all stakeholders have sufficient opportunity to submit comments on its new enhanced quality initiative.

DATES: To be assured of consideration, written comments must be received on or before May 20, 2015.

ADDRESSES: Written comments should be sent by electronic mail message over the Internet addressed to: *WorldClassPatentQuality@uspto.gov.* Comments may also be submitted by postal mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313–1450, marked to the attention of Michael Cygan, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

Although comments may be submitted by postal mail, the USPTO prefers to receive comments by electronic mail message over the Internet in order to facilitate sharing the received comments with the public. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT® WORD format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of the Commissioner for Patents, currently located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the USPTO's Internet Web site (*http://www.uspto.gov/patent/initiatives/enhanced-patent-quality-initiative.html*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments. It would be helpful to the USPTO if written comments included information about: (1) The name and affiliation of the individual responding; and (2) an indication of whether comments offered represent views of the respondent's organization or are the respondent's personal views.

FOR FURTHER INFORMATION CONTACT: Michael T. Cygan, Senior Legal Advisor, at (571) 272–7700; Maria Nuzzolillo, Legal Advisor, at (571) 272–8150; or Jeffrey R. West, Legal Advisor, at (571) 272–2226.

SUPPLEMENTARY INFORMATION: The USPTO is extending the period for public comment on its Enhanced Patent Quality Initiative. The USPTO launched a comprehensive and enhanced quality initiative beginning with a request for public comments on a set of six proposals outlined in a **Federal Register** Notice, *Request for Comments on Enhancing Patent Quality,* 80 FR 6475 (Feb. 5, 2015). The new enhanced quality initiative continued with a two-

day ''Quality Summit'' with the public to discuss the outlined proposals, which was held on March 25 and 26, 2015, at the USPTO headquarters in Alexandria, Virginia.

In view of the substantial public interest in this initiative, the number and complexity of the issues involved, and requests from the public for an extension of the time to submit comments, the USPTO is now extending the period for submission of public comments until May 20, 2015.

Members of the public are invited to submit written comments that address the proposals outlined in the February 5, 2015, **Federal Register** Notice or that provide input on other programs or initiatives not reflected in the proposals that the public believes may enhance patent quality. Based upon the stakeholder feedback received, the USPTO plans to refine the proposals as needed and to continue its engagement with the public about these proposals through a series of additional events. Through such continued engagement with the public, the USPTO can take the correct next steps in its continued efforts toward enhancing patent quality.

Dated: May 5, 2015.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–11318 Filed 5–8–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0023]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Roads to Success in North Dakota: A Randomized Study of a College and Career Preparation Curriculum

AGENCY: Office of Career, Technical and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before June 10, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0023 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Braden Goetz, 202–245–7405.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Roads to Success in North Dakota: A Randomized Study of a College and Career Preparation Curriculum.

OMB Control Number: 1830–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 88.

Total Estimated Number of Annual Burden Hours: 22.

Abstract: The Office of Career, Technical, and Adult Education in the U.S. Department of Education is supporting an evaluation that will examine the impact of a college and career preparation curriculum for students in the 11th and 12th grades on students' college and career aspirations, planning for postsecondary transitions and adult life, and attitudes toward education and careers. The evaluation has an experimental design with school-level random assignment; this Information Collection Request includes surveys of students, instructors, and principals and protocols for site visits.

Dated: May 5, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–11287 Filed 5–8–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–66–000.

Applicants: Osage Wind, LLC.

Description: Supplement to January 29, 2015 Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of Osage Wind, LLC.

Filed Date: 4/27/15.

Accession Number: 20150427–5553.

Comments Due: 5 p.m. ET 5/7/15.

Docket Numbers: EC15–130–000.

Applicants: CPV Maryland, LLC, MC St. Charles LLC, OG St. Charles LLC, Osaka Gas USA Corporation.

Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Request for Confidential Treatment, and Request for Expedited Consideration of CPV Maryland, LLC, et. al.

Filed Date: 4/27/15.

Accession Number: 20150427–5551.

Comments Due: 5 p.m. ET 5/18/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–77–000.
Applicants: Logan's Gap Wind LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Logan?s Gap Wind LLC.
Filed Date: 4/28/15.
Accession Number: 20150428–5202.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: EG15–78–000.
Applicants: Fowler Ridge IV Wind Farm LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Fowler Ridge IV Wind Farm LLC.
Filed Date: 4/28/15.
Accession Number: 20150428–5420.
Comments Due: 5 p.m. ET 5/19/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1511–006; ER10–2231–005; ER10–1714–006; ER10–3247–009; ER10–2010–004; ER10–1959–003; ER10–2007–003; ER10–2013–003; ER12–1780–002; ER10–2015–003; ER10–2017–003; ER10–2021–003; ER10–2011–008; ER10–2019–004; ER10–2018–003; ER10–2020–002.
Applicants: Electric Energy Inc., Kentucky Utilities Company, LG&E Energy Marketing Inc., Lower Mount Bethel Energy, LLC, PPL Brunner Island, LLC, PPL Electric Utilities Corporation, PPL EnergyPlus LLC, PPL Holtwood LLC, PPL Ironwood, LLC, PPL Martins Creek, LLC, PPL Montour, LLC, PPL New Jersey Biogas, LLC., PPL New Jersey Solar, LLC, PPL Renewable Energy, LLC, PPL Susquehanna, LLC, Louisville Gas & Electric Company, Electric Energy, Inc.
Description: Notice of Non-Material Change in Status of the PPL Companies.
Filed Date: 4/27/15.
Accession Number: 20150427–5558.
Comments Due: 5 p.m. ET 5/18/15.
Docket Numbers: ER14–2840–002.
Applicants: NextEra Energy Services Massachusetts, LLC.
Description: Compliance filing per 35: NextEra Energy Services Massachussetts, LLC Amend to Order No. 784 Compliance to be effective 9/11/2014.
Filed Date: 4/27/15.
Accession Number: 20150427–5407.
Comments Due: 5 p.m. ET 5/18/15.
Docket Numbers: ER15–883–002.
Applicants: Southern California Edison Company.
Description: Tariff Amendment per 35.17(b): Second Amended GIA Distrib Serv Agmt San Gorgonio Weswinds II, Difwind Farms to be effective 12/31/9998.
Filed Date: 4/28/15.
Accession Number: 20150428–5332.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1136–001.
Applicants: Big Cajun I Peaking Power LLC.
Description: Tariff Amendment per 35.17(b): Revised Rate Schedule and Request for Shortened Notice Period & Expedited Action to be effective 6/1/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5348.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1568–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2900R2 KMEA NITSA NOA and Cancellation of Westar NITSA NOA SA 2166R3 to be effective 4/1/2015.
Filed Date: 4/27/15.
Accession Number: 20150427–5414.
Comments Due: 5 p.m. ET 5/18/15.
Docket Numbers: ER15–1569–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Second Revised Service Agreement No. 2390 (Z1–089) to be effective 3/25/2015.
Filed Date: 4/23/15.
Accession Number: 20150423–5286.
Comments Due: 5 p.m. ET 5/14/15.
Docket Numbers: ER15–1570–000.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Compliance filing per 35: 2015 RIA Annual Update to be effective 1/1/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5163.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1571–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–28 NCA BCA RSG Mitigation Filing to be effective 6/30/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5165.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1572–000.
Applicants: Southwest Power Pool, Inc.
Description: Notice of Cancellation of Large Generator Interconnection Agreement of Southwest Power Pool, Inc.
Filed Date: 4/28/15.
Accession Number: 20150428–5178.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1573–000
Applicants: Unitil Power Corp.
Description: Unitil Power Corp submits Statement of all billing transactions under the Amended Unitil System Agreement for the period January 1, 2014 to December 31, 2014.
Filed Date: 4/28/15.
Accession Number: 20150428–5223.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1574–000.
Applicants: Town Square Energy East, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notice of Succession to be effective 4/2/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5238.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1575–000.
Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015_InterchangeAgreement to be effective 1/1/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5264.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1576–000.
Applicants: Constellation Power Source Generation, LLC.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation to be effective 1/31/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5426.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1577–000.
Applicants: New York State Electric & Gas Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Engineering and Procurement Agreement with Beacon Power Corporation to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5438.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1578–000.
Applicants: New York State Electric & Gas Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Engineering and Procurement Agreement with Broome Energy Resources LLC to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5441.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1579–000.
Applicants: 67RK 8me LLC.
Description: Initial rate filing per 35.12 67RK 8me LLC MBR Tariff to be effective 6/1/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5442.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1580–000.

Applicants: New York State Electric & Gas Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Engineering and Procurement Agreement with Marsh Hill Energy LLC to be effective 5/11/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5445.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER15–1581–000.

Applicants: New York State Electric & Gas Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Engineering and Procurement Agreement with Stony Creek Energy LLC to be effective 5/11/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5448.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER15–1582–000.

Applicants: 65HK 8me LLC.

Description: Initial rate filing per 35.12 65HK 8me LLC MBR Tariff to be effective 6/1/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5453.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER15–1583–000.

Applicants: Dynegy Resources Management, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notice of Succession and Revisions to Market-Based Rate Tariff to be effective 4/29/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5458.

Comments Due: 5 p.m. ET 5/19/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–19–000.

Applicants: AEP West Virginia Transmission Company.

Description: Application pursuant to Section 204 of the Federal Power Act of AEP West Virginia Transmission Company, Inc. for authorization to issue securities.

Filed Date: 4/27/15.

Accession Number: 20150427–5561.

Comments Due: 5 p.m. ET 5/18/15.

Docket Numbers: ES15–20–000.

Applicants: Cross-Sound Cable Company, LLC.

Description: Application For Authorization Under Section 204 Of The Federal Power Act And Request For Waiver Of Commission Regulations And Confidential Treatment Of Transaction-Related Information of Cross-Sound Cable Company, LLC.

Filed Date: 4/28/15.

Accession Number: 20150428–5276.

Comments Due: 5 p.m. ET 5/19/15.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA15–1–000.

Applicants: MidAmerican Energy Company, Berkshire Hathaway Northeast/Central Parties.

Description: Quarterly Land Acquisition Report of the Berkshire Hathaway Northeast/Central Parties.

Filed Date: 4/27/15.

Accession Number: 20150427–5548.

Comments Due: 5 p.m. ET 5/18/15.

Docket Numbers: LA15–1–000.

Applicants: Beech Ridge Energy LLC, Beech Ridge Energy II LLC, Beech Ridge Energy Storage LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, California Ridge Wind Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Grand Ridge Energy Storage LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Grays Harbor Energy LLC, Hardee Power Partners Limited, Invenergy Cannon Falls LLC, Invenergy Nelson LLC, Invenergy TN LLC, Judith Gap Energy LLC, Prairie Breeze Wind Energy LLC, Prairie Breeze Wind Energy II LLC, Sheldon Energy LLC, Spindle Hill Energy LLC, Spring Canyon Energy LLC, Spring Canyon Energy II LLC, Spring Canyon Energy III LLC, Stony Creek Energy LLC, Vantage Wind Energy LLC, Wolverine Creek Energy LLC, Willow Creek Energy LLC.

Description: Quarterly Land Acquisition Report of Beech Ridge Energy LLC, et. al.

Filed Date: 4/28/15.

Accession Number: 20150428–5379.

Comments Due: 5 p.m. ET 5/19/15.

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 28, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11321 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–915–000.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company Operational Purchases and Sales Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5137.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–916–000.

Applicants: ANR Storage Company.

Description: ANR Storage Company Operational Purchases and Sales of Gas Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5144.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–917–000.

Applicants: Bison Pipeline LLC.

Description: Bison Pipeline LLC Operational Purchases and Sales of Gas Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5145.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–918–000.

Applicants: Blue Lake Gas Storage Company.

Description: Blue Lake Gas Storage Company Operational Purchases and Sales of Gas Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5146.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–919–000.

Applicants: TC Offshore LLC.

Description: TC Offshore LLC Operational Purchases and Sales of Gas Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5147.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–920–000.

Applicants: Great Lakes Gas Transmission Limited Par.

Description: Great Lakes Gas Transmission Operational Purchases and Sales of Gas Report.

Filed Date: 4/29/15.

Accession Number: 20150429–5148.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–921–000.
Applicants: Northern Border Pipeline Company.
Description: Northern Border Pipeline Company Operational Purchases and Sales of Gas Report.
Filed Date: 4/29/15.
Accession Number: 20150429–5149.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–922–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: ConEdison 2015–05–01 Ramapo Releases to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5208.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–923–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: BBPC 2015–05–01 Releases to EDF Trading to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5214.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–924–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: BUG 2015–05–01 Ramapo Release to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5232.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–925–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: KeySpan 2015–05–01 Ramapo Release to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5239.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–926–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) rate filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—May 2015 to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5436.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–927–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) rate filing per 154.204: Apr2015 Modification of Exhibits to FT–1 Service Agreement to be effective 7/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5437.
Comments Due: 5 p.m. ET 5/11/15.
Docket Numbers: RP15–928–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) rate filing per 154.204: Negotiated Rates—UGI Utilities, Inc. to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5440.
Comments Due: 5 p.m. ET 5/11/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–65–002.
Applicants: Gulf South Pipeline Company, LP.
Description: Compliance filing per 154.203: Motion General Section 4 Rate Case Tariff Records into Effect to be effective 5/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5402.
Comments Due: 5 p.m. ET 5/11/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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

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

Dated: April 30, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11325 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–13–000]

Municipal Energy Agency of Mississippi; Notice of Filing

Take notice that on April 30, 2015, Municipal Energy Agency of Mississippi submitted its tariff filing per 35.28(e): Revenue Requirement for Reactive Service to be effective May 1, 2015.

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 21, 2015.

Dated: May 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11328 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–39–000]

Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, Oleander Power Project, Limited Partnership, Southern Company—Florida LLC, Southern Turner Cimarron I, LLC, Spectrum Nevada Solar, LLC, Campo Verde Solar, LLC, Macho Springs Solar, LLC; Notice of Institution of Section 206 Proceeding, and Refund Effective Date

On April 27, 2015, the Commission issued an order in Docket No. EL15–39–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Southern Companies' market-based rates in the Southern Company Services, Inc., PowerSouth Energy Cooperative, South Carolina Public Service Authority, South Carolina Electric & Gas Company, and City of Tallahassee balancing authority areas. *Alabama Power Company,* 151 FERC ¶ 61,071 (2015).

The refund effective date in Docket No. EL15–39–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: April 28, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11326 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–904–000.
Applicants: Gas Transmission Northwest LLC.
Description: Petition of Gas Transmission Northwest LLC for Approval of Stipulation and Agreement of Settlement.
Filed Date: 4/23/15.
Accession Number: 20150423–5271.
Comments Due: 5 p.m. ET 5/5/15.

Docket Numbers: RP15–929–000.
Applicants: Equitrans, L.P.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate Service Agreement—Mountaineer Keystone LLC to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5059.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–930–000.
Applicants: TC Offshore LLC.
Description: Section 4(d) rate filing per 154.403: Cashout 2015 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5067.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–931–000.
Applicants: ANR Pipeline Company.
Description: Section 4(d) rate filing per 154.403: Cashout 2015 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5070.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–932–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Section 4(d) rate filing per 154.204: Exhibit B Update—Contract 117453 to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5082.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–933–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: Section 4(d) rate filing per 154.403: Fuel Filing on 4–30–15 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5083.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–934–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: Section 4(d) rate filing per 154.403: Fuel Filing on 4–30–15 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5084.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–935–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: Section 4(d) rate filing per 154.204: Filing to Substitute Published Index Prices to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5155.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–936–000.
Applicants: Alliance Pipeline L.P.
Description: Section 4(d) rate filing per 154.204: May 1—31 2015 Auction to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5193.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–937–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) rate filing per 154.403: 20150501 Winter PRA Fuel Rates to be effective 11/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5195.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–938–000.
Applicants: Cheyenne Plains Gas Pipeline Company, L.
Description: Section 4(d) rate filing per 154.403(d)(2): FL&U to be effective June 1, 2015 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5204.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–939–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): FL&U to be effective June 1, 2015 to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5213.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–940–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.601: Negotiated Rate (EP Marketing) to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5273.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–941–000.
Applicants: Discovery Gas Transmission LLC.
Description: Section 4(d) rate filing per 154.204: 2015 System Map Update to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5275.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–942–000.
Applicants: Dominion Carolina Gas Transmission, LLC.
Description: Compliance filing per 154.203: Compliance new tariff (Baseline) to be effective 4/30/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5305.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–943–000.
Applicants: Dominion Transmission, Inc.
Description: Section 4(d) rate filing per 154.204: DTI—April 30, 2015 Negotiated Rate Agreements to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5308.
Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–944–000.
Applicants: Dominion Carolina Gas Transmission, LLC.

Description: Tariff Cancellation per 154.602: Cancellation of whole tariff to be effective 4/30/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5320.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–945–000.

Applicants: Enable Mississippi River Transmission, L.

Description: Section 4(d) rate filing per 154.204: Negotiated Rate Filing to Remove CES 5677 Eff 5–1–15 to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5404.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–946–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Section 4(d) rate filing per 154.204: US Gas 2015–05–01 Ramapo Release to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5424.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–947–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Section 4(d) rate filing per 154.204: Negotiated Rate—Nextera 510810 to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5486.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–948–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Section 4(d) rate filing per 154.204: Capacity Reserved for Future Expansion to be effective 6/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5500.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–949–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Section 4(d) rate filing per 154.403(d)(2): Fuel Tracker 06/01/15 to be effective 6/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5514.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–950–000.

Applicants: Equitrans, L.P.

Description: Section 4(d) rate filing per 154.204: Negotiated Capacity Release Agreement- 5/01/2015 to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5550.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–951–000.

Applicants: Cheyenne Plains Gas Pipeline Company, L.

Description: Section 4(d) rate filing per 154.601: Name Change (Encore) to be effective 6/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5560.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–952–000.

Applicants: Tallgrass Interstate Gas Transmission, L.

Description: Section 4(d) rate filing per 154.204: Neg Rate 2015/4/30 DCP Midstream to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5589.

Comments Due: 5 p.m. ET 5/12/15.

Docket Numbers: RP15–953–000.

Applicants: Gulfstream Natural Gas System, L.L.C.

Description: Section 4(d) rate filing per 154.403(d)(2): 2015 GNGS TUP/SBA Filing to be effective 6/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5001.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–954–000.

Applicants: Tuscarora Gas Transmission Company.

Description: Section 4(d) rate filing per 154.204: TC Plus System Implementation to be effective 6/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5033.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–955–000.

Applicants: Gas Transmission Northwest LLC.

Description: Section 4(d) rate filing per 154.204: Implementation of TC Plus to be effective 6/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5037.

Comments Due: 5 p.m. ET 5/13/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–681–002.

Applicants: MIGC LLC.

Description: Compliance filing per 154.203: Amendment to Docket Number RP15–681–000 to be effective 4/24/2015.

Filed Date: 3/31/15.

Accession Number: 20150331–5446.

Comments Due: 5 p.m. ET 5/6/15.

Docket Numbers: RP15–914–001.

Applicants: Trailblazer Pipeline Company LLC.

Description: Tariff Amendment per 154.205(b): Amend Koch K in RP15–914 to be effective 5/1/2015.

Filed Date: 4/30/15.

Accession Number: 20150430–5004.

Comments Due: 5 p.m. ET 5/12/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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

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

Dated: May 1, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–11281 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–13–000]

Municipal Energy Agency of Mississippi; Notice of Filing

Take notice that on April 30, 2015, Municipal Energy Agency of Mississippi submitted its tariff filing per 35.28(e): Revenue Requirement for Reactive Service to be effective May 1, 2015.

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 21, 2015.

Dated: May 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11329 Filed 5–8–15; 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 corporate filings:

Docket Numbers: EC15–132–000.

Applicants: Georgia Power Company.

Description: Application under Section 203 of Georgia Power Company.

Filed Date: 5/1/15.

Accession Number: 20150501–5472.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: EC15–133–000.

Applicants: Duquesne Conemaugh, LLC, Duquesne Keystone, LLC, Chief Keystone Power, LLC, Chief Conemaugh Power, LLC.

Description: Joint Application for Authorization for Disposition and Consolidation of Jurisdictional Facilities and Acquisition of Existing Generation Facilities and Request for Expedited Action of Duquesne Keystone, LLC, *et al.*

Filed Date: 5/1/15.

Accession Number: 20150501–5474.

Comments Due: 5 p.m. ET 5/22/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2984–020.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 5/1/15.

Accession Number: 20150501–5468.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER13–2477–007*; ER15–1608–001; ER15–1607–001; ER15–1606–001; ER15–1605–001; ER15–1604–001; ER15–1603–001; ER15–1602–001; ER15–1600–001; ER15–1599–001; ER15–1598–001; ER15–1597–001; ER15–1596–001; ER15–1583–001; ER14–924–003; ER14–922–003; ER14–883–004; ER14–1569–003; ER13–2476–007; ER13–2475–007; ER12–192–010; ER11–4400–005; ER11–4398–004; ER11–4266–011; ER11–3867–012; ER11–3866–012; ER11–3859–012; ER11–3857–012; ER10–3247–010; ER10–2619–005; ER10–2617–005; ER10–2616–008; ER10–2613–005; ER10–2593–003; ER10–2590–003; ER10–2585–005.*

Applicants: Brayton Point Energy, LLC, Casco Bay Energy Company, LLC, Dighton Power, LLC, Dynegy Commercial Asset Management, LLC, Dynegy Conesville, LLC, Dynegy Dicks Creek, LLC, Dynegy Energy Services (East), LLC, Dynegy Energy Services, LLC, Dynegy Fayette II, LLC, Dynegy Hanging Rock II, LLC, Dynegy Kendall Energy, LLC, Dynegy Killen, LLC, Dynegy Lee II, LLC, Dynegy Marketing and Trade, LLC, Dynegy Miami Fort, LLC, Dynegy Midwest Generation, LLC, Dynegy Moss Landing, LLC, Dynegy Oakland, LLC, Dynegy Power Marketing, LLC Dynegy Resources Management, LLC, Dynegy Stuart, LLC, Dynegy Washington II, LLC, Dynegy Zimmer, LLC, Electric Energy, Inc., Elwood Energy LLC, Illinois Power Generating Company, Illinois Power Marketing Company, Illinois Power Resources Generating, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Ontelaunee Power Operating Company, LLC, Richland- Stryker Generation LLC, Sithe/Independence Power Partners, L.P.

Description: Notification of Change in Status of the Dynegy Inc. MBR Sellers under ER13–2477, *et al.*

Filed Date: 5/1/15.

Accession Number: 20150501–5350.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–506–002.

Applicants: DeSoto County Generating Company, LLC.

Description: Compliance filing per 35: Compliance Filing to be effective 12/1/2014.

Filed Date: 5/4/15.

Accession Number: 20150504–5161.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–572–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing per 35: NY Transco cmplnc re: cost allocation—transmission facilities & formula rates to be effective 4/3/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5051.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1065–000.

Applicants: Balko Wind, LLC.

Description: Clarifications in Support of Market-Based Rate Tariff Filing and as supplemented of Balko Wind, LLC.

Filed Date: 5/4/15.

Accession Number: 20150504–5067.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: ER15–1066–001.

Applicants: Red Horse Wind 2, LLC.

Description: Clarifications in Support of Market-Based Rate Tariff Filing and as supplemented of Red Horse Wind 2, LLC.

Filed Date: 5/4/15.

Accession Number: 20150504–5069.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: ER15–1429–001.

Applicants: Emera Maine.

Description: Compliance filing per 35: Amendment to Application, Errata to be effective 7/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5338.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–1475–001.

Applicants: North Star Solar, LLC.

Description: Tariff Amendment per 35.17(b): Amendment to Initial Market-Based Rate Application to be effective 4/9/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5433.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–1653–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2829R1 Midwest Energy & Westar Energy Meter Agent Agreement to be effective 4/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5430.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–1654–000.

Applicants: Eagle Point Power Generation LLC.

Description: Initial rate filing per 35.12 Tenant-In-Common Agreement to be effective 4/2/2012.

Filed Date: 5/1/15.

Accession Number: 20150501–5434.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–1655–000.

Applicants: Sierra Pacific Power Company.

Description: Initial rate filing per 35.12 Service Agreement No. 07–00023 SPPC-Shell-Barrick-Turquoise to be effective 1/1/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5001.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1656–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance Filing for Order No. 1000, Regarding Interregional Coordination and Cost Allocation of Transmission Projects with NorthWestern Corporation and the Mid-Continent Area Power Pool of Midcontinent Independent System Operator, Inc.

Filed Date: 5/1/15.

Accession Number: 20150501–5476.

Comments Due: 5 p.m. ET 5/22/15.

Docket Numbers: ER15–1657–000.

Applicants: SEPG Energy Marketing Services, LLC.

Description: Initial rate filing per 35.12 Market-Based Rate Application to be effective 7/6/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5092.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1658–000.

Applicants: PJM Interconnection, L.L.C.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Second Revised Service Agreement No. 3665; Queue No. AA1–084 to be effective 4/2/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5102.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1659–000.

Applicants: Quantum Choctaw Power, LLC.

Description: Tariff Withdrawal per 35.15: Quantum Choctaw Power Notice of Cancellation of Market-Based Rate Tariff to be effective 5/5/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5114.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1660–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Resource Termination—Brookfield White Pine Hydro LLC.

Filed Date: 5/4/15.

Accession Number: 20150504–5146.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1661–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Notice of Termination of the Wholesale Distribution Service Agreement No. 1949 of Midcontinent Independent System Operator, Inc.

Filed Date: 5/4/15.

Accession Number: 20150504–5149.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1662–000.

Applicants: Rocky Road Power, LLC.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Market-Based Tariff Revisions to be effective 5/5/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5159.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1663–000.

Applicants: Tilton Energy, LLC.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Market-Based Rate Tariff to be effective 5/5/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5160.

Comments Due: 5 p.m. ET 5/26/15.

Docket Numbers: ER15–1664–000.

Applicants: AEP Texas North Company.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): TNC–OCI Alamo 7 Interconnection Agreement to be effective 4/9/2015.

Filed Date: 5/4/15.

Accession Number: 20150504–5187.

Comments Due: 5 p.m. ET 5/26/15.

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: May 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–11280 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–956–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Rate Case-Related Amendments to Neg Rate and Non-conforming Agmts to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5107.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–957–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (PH 41448 to Texla 44584) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5108.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–958–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Encana 37663 to BP 44594) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5111.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–959–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Willmut 35221 to BP 44595) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5116.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–960–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (QEP 37657 to Trans LA 44614) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5120.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–961–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (CenterPoint 35484 to BP 44642) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5123.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–962–000.

Applicants: Rockies Express Pipeline LLC.

Description: Section 4(d) rate filing per 154.204: Neg Rate 2015–05–01 ITs Sequent, BP, Exelon, Mieco, Tenaska to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5232.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–963–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (CenterPoint 44554 to BP 44651) to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5267.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–964–000.

Applicants: Rockies Express Pipeline LLC.

Description: Section 4(d) rate filing per 154.204: Neg Rage 2015–05–01 Ultra, Encana, CP to be effective 5/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5282.

Comments Due: 5 p.m. ET 5/13/15.

Docket Numbers: RP15–965–000.

Applicants: Southeast Supply Header, LLC.

Description: Section 4(d) rate filing per 154.403(d)(2): 2015 TUP/SBA Annual Filing to be effective 6/1/2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5388.

Comments Due: 5 p.m. ET 5/13/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–584–003.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing per 154.203: Revenue Sharing Report 2015.

Filed Date: 5/1/15.

Accession Number: 20150501–5141.

Comments Due: 5 p.m. ET 5/13/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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

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

Dated: May 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–11282 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10200–014]

Congdon Pond Hydro, LLC; Notice of Intent To Terminate Exemption (5 Mw or Less) and Soliciting Comments, Protests, or Motions To Intervene

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. Type of Proceeding: Termination of exemption by implied surrender.

b. Project No.: 10200–014.

c. Date Initiated: May 4, 2015.

d. Exemptee: Congdon Pond Hydro, LLC.

e. Name and Location of Project: The Congdon Dam Hydroelectric Project is located on the Oxoboxo Brook in New London County, Connecticut.

f. *Filed Pursuant to:* 18 CFR 4.106 (Standard Article 1).

g. Exemptee Contact Information: Mr. John Morte, President and Treasurer, Congdon Pond Hydro, LLC., 63 Hayward Street, Milford, MA (508) 333–6743.

h. *FERC Contact:* Jennifer Polardino, (202) 502–6437, *Jennifer.Polardino@ferc.gov*.

i. Deadline for filing comments, protests, or motions to intervene is 30 days from the issuance of this notice by the Commission. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp* and filing instructions in the Commission's Regulations at 18 CFR 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at *http://www.ferc.gov/help/submission-guide/user-guide.pdf*. In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these ''qualified documents'' at *http://www.ferc.gov/docs-filing/efiling/filing.pdf*. You must include your name and contact information at the end of your comments. Please include the project number (P–10200–014) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ–12, 888 First Street NE., Washington, DC 20426.

j. Description of Project Facilities: (1) A 35-foot-high by 170-foot-long dam, with 7-inch-high flashboards; (2) a 6.5-acre reservoir with a storage capacity of 130 acre-feet; (3) two outlet works with an overall length of 23 feet; (4) a 5-foot-diameter by 70-foot-long penstock; (5) a powerhouse containing one 60-kilowatts generating unit; (6) a tailrace; and (7) appurtenant facilities.

k. Description of Proceeding: The exemptee is in violation of Standard Article 1 of its exemption, which was granted on December 9, 1987 (41 FERC ¶ 62,224). Article 1 provides, among other things, that the Commission may terminate an exemption if any term or condition of the exemption is violated.

Commission records show that Congdon Dam Hydroelectric Project has been non-operational since May 2002. After several years of correspondence regarding restoring project operation, the exemptee has become non-responsive. The exemptee most recently filed with the Commission on September 18, 2014 a plan and schedule to restore project operation. In its filing, the exemptee also requested to extend the date to restore project operation to October 1, 2015. By letter dated October 8, 2014, the Commission acknowledged the filing and required the exemptee to file a status update by January 15, 2015 to show continued progress towards restoring project operation. The filing should also include an application to amend the exemption to reflect the new transmission line alignment. The exemptee did not do so. By letter dated April 9, 2015, the Commission again required the exemptee to file by April 24, 2014, a plan and schedule to restore operational status, and an application to amend the exemption if the exemptee still intends to change the transmission line alignment. The exemptee was notified that failure to do so would result in an implied surrender of the project exemption. To date, the exemptee has not filed a response and the project remains inoperable.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the Docket number (P–10200–014) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–

3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular proceeding.

o. *Filing and Service of Responsive Documents*—Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST,'' or ''MOTIONS TO INTERVENE'', as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting, or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis. All comments, protests, or motions to intervene should relate to project works which are the subject of the termination of exemption. A copy of any protest or motion to intervene must be served on each representative of the exemptee specified in item ''f'' above. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding in accordance with 18 CFR 4.34(b) and 385.2010.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: May 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–11283 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–905–000.

Applicants: Gas Transmission Northwest LLC.

Description: § 4(d) rate filing per 154.204: Consolidation of PS–1_AIS–1 into PAL Service to be effective 6/1/2015.

Filed Date: 4/24/15.

Accession Number: 20150424–5035.

Comments Due: 5 p.m. ET 5/6/15.

Docket Numbers: RP15–906–000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) rate filing per 154.204: 2015 Pooling/Title Transfer Tracking to be effective 5/28/2015.

Filed Date: 4/24/15.

Accession Number: 20150424–5103.

Comments Due: 5 p.m. ET 5/6/15.

Docket Numbers: RP15–907–000.

Applicants: Great Lakes Gas Transmission Limited Par.

Description: Great Lakes Gas Transmission's Revenue Cap and Revenue Sharing Mechanism True-Up Report.

Filed Date: 4/24/15.

Accession Number: 20150424–5158.

Comments Due: 5 p.m. ET 5/6/15.

Docket Numbers: RP15–908–000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) rate filing per 154.204: 2015 Interruptible Agreements to be effective 5/28/2015.

Filed Date: 4/27/15.

Accession Number: 20150427–5409.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–909–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (FPL 41618 to Tenaska 44540) to be effective 5/1/2015.

Filed Date: 4/27/15.

Accession Number: 20150427–5420.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–910–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) rate filing per 154.204: Exelon Negotiated Rate Filing to be effective 5/1/2015.

Filed Date: 4/27/15.

Accession Number: 20150427–5429.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–911–000.

Applicants: Elba Express Company, L.L.C.

Description: Compliance filing per 154.203: Fuel Tracker Filing—2015.

Filed Date: 4/24/15.

Accession Number: 20150424–5371.

Comments Due: 5 p.m. ET 5/6/15.

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 28, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11323 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–912–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) rate filing per 154.204: Amendment to Neg Rate Agmt (Sequent 34693–28) to be effective 4/28/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5232.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–913–000.

Applicants: East Cheyenne Gas Storage, LLC.

Description: Compliance filing per 154.203: ECGS 2015 Operational Purchase and Sales Report filing.

Filed Date: 4/28/15.

Accession Number: 20150428–5294.

Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: RP15–914–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) rate filing per 154.204: Neg Rate 2015–04–28 Koch, Green Plains to be effective 5/1/2015.

Filed Date: 4/28/15.

Accession Number: 20150428–5360.

Comments Due: 5 p.m. ET 5/11/15.

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 29, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–11324 Filed 5–8–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9927–53–OAR]

New and Revised Emissions Factors for Flares and Other Refinery Process Units and Determination for No Changes to VOC Emissions Factors for Tanks and Wastewater Treatment Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: On April 20, 2015, the Environmental Protection Agency (EPA) issued new and revised emission factors for flares and other refinery process units and issued its final determination that revisions to existing emissions factors for tanks and wastewater treatment systems are not necessary. The EPA finalized these actions in compliance with a consent decree entered into with Air Alliance Houston, Community In-Power and Development Association, Inc., Louisiana Bucket Brigade and Texas Environmental Justice Advocacy Services (''Plaintiffs'').

ADDRESSES: You may review copies of the final actions taken and the supporting information electronically at: *http://www.epa.gov/ttn/chief/consentdecree/index_consent_decree.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Gerri Garwood, Measurement Policy Group (MPG), Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2406; fax number: (919) 541–1039; and email address: *garwood.gerri@epa.gov.*

SUPPLEMENTARY INFORMATION: As described above, the EPA finalized these actions to fulfill its obligations under the consent decree, which resolves litigation in which Plaintiffs alleged that the EPA failed to perform nondiscretionary duties pursuant to Clean Air Act (CAA) section 130 to review, and, if necessary, revise the emissions factors for volatile organic compounds (VOC) for flares, liquid storage tanks (''tanks''), and wastewater collection, treatment and storage systems (''wastewater treatment systems'') at least once every 3 years. See *Air Alliance Houston, et al.* v. *McCarthy,* No. 1:13–cv–00621–KBJ (D.D.C.).

The EPA evaluated all of the data collected during the 2011 Refinery Information Collection Request (2011 Refinery ICR), the data referenced in the Complaint, other test data available to the agency for flares, tanks and wastewater treatment systems, and data submitted during the public comment period. Based on this evaluation, we finalized a new VOC emissions factor for flares. We also issued final emissions factors (or emissions estimation methodologies) for certain refinery operations and pollutants that are not covered by the consent decree. The other emissions factors include carbon monoxide (CO) for flares; oxides of nitrogen (NO_X), total hydrocarbons (THC), and CO for sulfur recovery units; THC for catalytic reforming units; NO_X for hydrogen plants; and hydrogen cyanide for fluid catalytic cracking units. We updated Sections 5.1, 8.13, and 13.5 of AP–42, *Compilation of Air Pollutant Emission Factors,* to incorporate the new and revised emissions factors. AP–42 is the primary compilation of EPA's emission factor information.

We previously developed a refinery emissions estimation protocol in response to a Data Quality Act petition which was used in the 2011 Refinery ICR. The refinery emissions estimation protocol lists and ranks available methods for calculating emissions from refineries. We finalized revisions to the Refinery Protocol, with some changes to address specific comments. Specifically, we updated Sections 1, 5, and 6 of the refinery emissions estimation protocol with these new emission factors. However, we are not requiring the use of the Refinery Protocol, just as we do not require the use of AP–42. It is simply another tool for use in estimating emissions when site-specific test data do not exist or are not available. We consider the Refinery Protocol to provide site-specific emissions inventory guidance that will result in more accurate and complete emissions inventories.

Based on our review of the available emissions data for tanks and wastewater treatment systems, we found that the data reviewed generally showed similar results between measured data and the existing emissions estimation methods. Therefore, we issued a final determination that revisions of the VOC emissions factors for tanks and wastewater treatment systems are not necessary.

Additionally, while we proposed a revised NO_X emissions factor for flares, based on our review of available data and additional information received after proposal, we determined that the data was not adequate to support revising the NO_X emissions factor for flares. Based on comments received, the EPA determined that the NO_X data used for the proposal contained certain flaws that rendered the data quality suspect.

Per the requirements of the consent decree, these final actions were issued on April 20, 2015. To support these findings, we developed two reports: ''EPA Review of Available Documents and Rationale in Support of Final Emissions Factors and Negative Determinations for Flares, Tanks, and Wastewater Treatment Systems,'' and ''Review of Emissions Test Reports for Emissions Factors Development for Flares and Certain Refinery Operations.'' We also prepared the following report to respond to the comments received during the public comment period: ''Background Information for Final Emissions Factors Development for Flares and Certain Refinery Operations and Final Determination for No Changes to VOC Emissions Factors for Tanks and Wastewater Treatment Systems, Summary of Public Comments and Responses.'' These reports, along with links to the updated chapters in AP–42 and the Refinery Protocol, were posted

on the Web site listed in the **ADDRESSES** section of this document on April 20, 2015.

These actions constitute final agency action of national applicability for purposes of section 307(b)(1) of the CAA. Pursuant to CAA section 307(b)(1), judicial review of these final agency actions may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by July 10, 2015. Judicial review of these final agency actions may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). These actions are not a rulemaking and are not subject to the various statutory and other provisions applicable to a rulemaking.

Dated: May 1, 2015.

Stephen D. Page,

Director.

[FR Doc. 2015–11344 Filed 5–8–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1085]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 10, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1085.

Title: Section 9.5, Interconnected Voice Over Internet Protocol (VoIP) E911 Compliance.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 12 respondents; 14,971,342 responses.

Estimated Time per Response: 50,062 hours.

Frequency of Response: Recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47. U.S.C. Sections 151, 154(i)–(j), 251(e), 303(r) of the Communications Act of 1934, as amended.

Total Annual Burden: 600,743 hours.

Total Annual Cost: $80,235,305.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is obligated by statute to promote ''safety of life and property'' and to ''encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure'' for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

The Order the Commission adopted on May 19, 2005, sets forth rules requiring providers of VoIP services that interconnect with the nation's existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers. To ensure E911 functionality for customers of VoIP service providers the Commission requires the following information collections:

A. Location Registration. Requires providers to interconnected VoIP services to obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

B. Provision of Automatic Location Information (ALI). Interconnected VoIP service providers will place the location information for their customers into, or make that information available through, specialized databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.

C. Customer Notification. Requires that all providers of interconnected VoIP are aware of their interconnected VoIP service's actual E911 capabilities. That all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.

D. Record of Customer Notification. Requires VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.

E. User Notification. In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service, interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the customer premises

equipment used in conjunction with the interconnected VoIP service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–11308 Filed 5–8–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, May 6, 2015 at 11:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting was closed to the public.

ITEMS DISCUSSED: Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action. Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary.

[FR Doc. 2015–11387 Filed 5–7–15; 11:15 am]

BILLING CODE 6715–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–CECANF–2015–04; Docket No. 2015–0004; Sequence No. 4]

Commission To Eliminate Child Abuse and Neglect Fatalities; Announcement of Meeting

AGENCY: Commission To Eliminate Child Abuse and Neglect Fatalities, General Services Administration.

ACTION: Meeting notice.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, will hold a meeting open to the public on Tuesday, May 19, 2015 and Wednesday, May 20, 2015 in Salt Lake City, Utah.

DATES: The meeting will be held on Tuesday, May 19, 2015, from 8:00 a.m. to 5:15 p.m., and Wednesday, May 20, 2015, from 8:00 a.m. to 12:30 p.m., Mountain Daylight Time.

ADDRESSES: CECANF will convene its meeting at the Sheraton, 150 West 500 South, Salt Lake City, Utah, 84101. This site is accessible to individuals with disabilities. The meeting also will be made available via teleconference and/or webinar.

Submit comments identified by ''Notice–CECANF–2015–04,'' by either of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice–CECANF–2015–04.'' Select the link ''Comment Now'' that corresponds with ''Notice–CECANF–2015–04.'' Follow the instructions provided on the screen. Please include your name, organization name (if any), and ''Notice–CECANF–2015–04'' on your attached document.
- *Mail:* General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

Instructions: Please submit comments only and cite ''Notice–CECANF–2015–04'' in all correspondence related to this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Visit the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/* or contact Patricia Brincefield, Communications Director, at 202–818–9596, General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

SUPPLEMENTARY INFORMATION:

Background: CECANF was established to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

Agenda: This meeting will explore key research, policy, and practice in the state of Utah related to addressing and preventing child abuse and neglect fatalities. Commission members will then continue discussing the work plans of the Commission subcommittees, the information that they have obtained to date, and emerging high-level recommendations.

Attendance at the Meeting: Individuals interested in attending the meeting in person or participating by webinar and teleconference must register in advance. To register to attend in person or by webinar/phone, please go to *http://meetingtomorrow.com/webcast/CECANF* and follow the prompts. Once you register, you will receive a confirmation email with the webinar login and teleconference number. Detailed meeting minutes will be posted within 90 days of the meeting. Members of the public will not have the opportunity to ask questions or otherwise participate in the meeting.

However, members of the public wishing to comment should follow the steps detailed under the heading **ADDRESSES** in this publication or contact us via the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/contact-us/.*

Dated: May 5, 2015.

Karen White,

Executive Assistant.

[FR Doc. 2015–11306 Filed 5–8–15; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: The Evaluation and System Design for Career Pathways Programs: 2nd Generation of HPOG (HPOG Next Gen Design).

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing information collection activities as part of the Evaluation and System Design for Career Pathways Programs: 2nd Generation of Health Profession Opportunity Grants (HPOG Next Gen Design). The key goals of the HPOG Next Gen Design project are to establish a data system for program management and evaluation, and to design a study to assess the effectiveness of the new HPOG programs. The study also is intended to evaluate variation in participant impact that may be attributable to different HPOG program components. The impact study design will include a classic experiment in which eligible applicants for the non-Tribal HPOG program services will be randomly assigned to a treatment group offered participation in HPOG and a control group not offered the opportunity to enroll in HPOG. There will be a separate but coordinated evaluation of the HPOG Next Gen Tribal grantees. Both goals require collecting information from HPOG Next Gen grantees on a regular basis. The information collection proposed is an Internet-based collection of information from HPOG Next Gen grantees on: (1) Grantee program designs and offerings; (2) intake information on eligible

applicants (both treatment and control) through baseline data collection; and (3) individual enrolled program participants' activities and outcomes.

The universe of information collection proposed for HPOG Next Gen includes the HPOG Next Gen Participant Accomplishment and Grant Evaluation System (PAGES). PAGES is a performance management system that will collect information from all grantees on their programs and participants on a semi-annual basis over the grant period of performance and intake information on eligible applicants (both treatment and control) through baseline data collection. The data system will meet the performance data needs of the HPOG Next Gen grantees and of the ACF Office of Family Assistance to monitor the performance of the grants and prepare the report to Congress on the grants, as well as support an impact study, a coordinated Tribal evaluation, and other future research and evaluation efforts sponsored by ACF.

Respondents: Grantee- and participant-level data to be collected by program staff in the approximately 40 grantee organizations (higher education institutions, workforce investment boards, private training institutions, nonprofit organizations, and tribal entities). Applicants at the 40 grantee organizations.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
PAGES Grantee—and Participant-Level Data Collection (all grantees)	120	40	2	31.75	2,540
PAGES Participant-Level Baseline Data Collection (participants at non-Tribal grantees participating in impact study)	31,500	10,500	1	.5	5,250
PAGES Participant-Level Baseline Data Collection (participants at Tribal grantees)	1,200	400	1	.25	100
Estimated Total Annual Burden Hours:					7,890

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance Officer.

[FR Doc. 2015–11266 Filed 5–8–15; 8:45 am]

BILLING CODE 4184–72–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Request for Nominations on the Vaccines and Related Biological Products Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any industry organizations interested in participating in the selection of a nonvoting industry representative to serve on the Vaccines and Related Biological Products Advisory Committee for the Center for Biologics Evaluation and Research (CBER) notify FDA in writing. FDA is also requesting nominations for a nonvoting industry representative(s) to serve on the Vaccines and Related Biological Products Advisory Committee. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to the FDA by June 10, 2015, (see sections I and II of this document for further details). Concurrently, nomination materials for prospective candidates should be sent to FDA by June 10, 2015.

ADDRESSES: All statements of interest from interested industry organizations interested in participating in the selection process of nonvoting industry representative nomination should be sent to Sujata Vijh (see **FOR FURTHER INFORMATION CONTACT**). All nominations for nonvoting industry representatives may be submitted electronically by accessing the FDA Advisory Committee Membership Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member of an FDA advisory committee can also be obtained by visiting FDA's Web site: *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Sujata Vijh, Division of Scientific Advisors and Consultants, Center for Biologics Evaluation and Research, 10903 New Hampshire Ave., Bldg. 71, Rm. 6128, Silver Spring, MD 20993–0002, 240–402–7107, FAX: 301–595–1307, email: *Sujata.vijh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency intends to add a nonvoting industry representative(s) to the following advisory committee:

I. CBER Vaccines and Related Biological Products Advisory Committee

The CBER Vaccines and Related Biological Products Advisory Committee (the Committee) reviews and evaluates data concerning the safety, effectiveness, and appropriate use of vaccines and related biological products which are intended for use in the prevention, treatment, or diagnosis of human diseases, and, as required, any other product for which FDA has regulatory responsibility. The Committee also considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products and makes appropriate recommendations to the Commissioner of Food and Drugs.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for the committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Contact information, a current curriculum vitae, and the name of the committee of interest should be sent to the FDA Advisory Committee Membership Nomination Portal (see **ADDRESSES**) within 30 days of publication (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA seeks to include the views of women, and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: May 5, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–11258 Filed 5–8–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pulmonary-Allergy Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 11, 2015, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, Grand Ballroom, 620 Perry Pkwy., Gaithersburg, MD 20877. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *PADAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss biologics license application (BLA) 125526, for mepolizumab for injection, submitted by GlaxoSmithKline for the proposed indication of add-on maintenance treatment in patients 12 years and older with severe eosinophilic asthma identified by blood eosinophils greater than or equal to 150 cells/microliter at initiation of treatment or blood eosinophils greater than or equal to 300 cells/microliter in the past 12 months.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 28, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 19, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may

conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 20, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristina Toliver at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 5, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–11257 Filed 5–8–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request National Institute of Health Neurobiobank Tissue Access Request

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 13, 2015, page 8723 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Mental Health (NIMH), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: NIMH Project Clearance Liaison, Science Policy and Evaluation Branch, OSPPC, NIMH, NIH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Rockville Pike, Bethesda, MD 20892, or call 301–443–4335 or Email your request, including your address to: *nimhprapubliccomments@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: National Institute of Health Neurobiobank Tissue Access Request—Existing without OMB Clearance—National Institute of Mental Health (NIMH), National Institute of Health (NIH).

Need and Use of Information Collection: NIMH is seeking OMB approval for two Neurobiobank data collections: (1) Pre-Mortem Donor Recruitment Form, and (2) Tissue Access Request Form. The pre-mortem donor form will collect information from potential donors to ensure and enable appropriate research use of the tissues and biospecimens. Knowledge about the health history surrounding a particular tissue or biospecimen is essential to ethical scientific research conducted upon it. The tissue access request form will collect information from researchers who wish to gain access to the tissue stored throughout the Neurobiobank network, The NIH Neurobiobank Tissue Access Request form is necessary to verify that the researcher ''Recipient'' Principal Investigators and their organization or corporations applying to use the tissue is qualified to conduct human tissue research and have approved assurance from the DHHS Office of Human Research Protections to access tissue or biospecimens from the National Neurobiobank for research purposes. The primary use of this information is to document, track, monitor, and evaluate the appropriate use of the Neurobiobank tissue and biospecimen resources, as well as to notify interested recipients of updates, corrections, or other changes to the system.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 38.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Number of respondents	Frequency of response	Average burden per response (in hours)	Total annual burden hours
Neurobiobank Tissue Access Request	50	1	30/60	25
Pre-Mortem Donor Recruitment Form	50	1	15/60	13
Total	100	.....	.....	38

Dated: May 5, 2015.

Keisha L. Shropshire,

NIMH Project Clearance Officer, NIMH, NIH.

[FR Doc. 2015–11332 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Dementia.

Date: July 27, 2015.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, Ph.D., National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National, Institutes of Health, HHS)

Dated: May 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11239 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Nursing Research Special Emphasis Panel, June 4, 2015, 11:00 a.m. to June 4, 2015, 1:00 p.m., National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 which was published in the **Federal Register** on April 27, 2015, 80 FR 23281.

The meeting notice is amended to change the date of the meeting from June 4, 2015 to June 11, 2015. The meeting is closed to the public.

Dated: May 5, 2015.

Michelle Trout,

Program, Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11233 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Biomedical Imaging and Bioengineering Special Emphasis Panel, K Award and R13 Conference Review.

Date: July 9, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 952, Bethesda, MD 20892, 301–451–4794, *hlastadj@mail.nih.gov.*

Dated: May 5, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11248 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; Program Project: RNA Binding Protein.

Date: June 18, 2015.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: *May 5, 2015.*

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11237 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Aging and Downs Syndrome.

Date: July 29, 2015.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, Ph.D., National Institutes on Aging National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11241 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders 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: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Julius Cinque, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, *cinquej@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

Date: June 1–2, 2015.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriot Courtyard Long Beach, CA, 500 E 1st St, Long Beach, CA 90802.

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *hunnicuttgr@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group Instrumentation and Systems Development Study Section.

Date: June 2–3, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: June 3, 2015.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott, 614 Canal Street, New Orleans, LA 70130.

Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–137: Neurotechnology and Low Vision Technology Bioengineering Research Grants.

Date: June 5, 2015.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Robert C Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Neurogenetics, Imaging Technologies and Bioengineering.

Date: June 5, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, *cbackman@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Mouse Models for Translational Research.

Date: June 5, 2015.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11243 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01—P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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/contract proposals 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/contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; IMAT Biospecimen Science.

Date: June 9, 2015.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 3E030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nicholas J. Kenney, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, MD 20850, 240–276–6374, *nicholas.kenney@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Diagnostic, Prognostics and Detection Special Emphasis Panel.

Date: June 9, 2015.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 2E914, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Gerard Lacourciere, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, MD 20850, 240–276–5457, *gerard.lacourciere@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Omnibus R03 & R21/SEP–1.

Date: June 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Zhiqiang Zou, MD, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W242, Bethesda, MD 20892, 240–276–6372, *zouzhiq@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus SEP–10.

Date: July 8, 2015.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W032, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Bethesda, MD 20892–9750, 240–276–6368, *stoicaa1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11242 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 a meeting of the Board of Scientific Counselors, National Institute of Biomedical Imaging and Bioengineering.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Biomedical Imaging and Bioengineering, including consideration of personal qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Biomedical Imaging and Bioengineering.

Date: June 7–9, 2015.

Time: 7:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Center, Bldg. 35, First Floor Conference Room, 610, Bethesda, MD 20892.

Contact Person: Richard D. Leapman, Intramural Scientific Director, National Institute of Biomedical Imaging and Bioengineering, Bethesda, MD 20892, 301–496–2599.

Dated: May 5, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11247 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders A.

Date: June 18–19, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–402–0288, *natalia.strunnikova@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 5, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11236 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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: National Institute of Mental Health Initial Review Group, Interventions Committee for Adult Disorders.

Date: June 9, 2015.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Interventions Committee for Disorders Involving Children and Their Families.

Date: June 9, 2015.

Time: 3:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group, Mental Health Services Research Committee.

Date: June 10, 2015.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 5, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11238 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI/NINDS & PCORI—Hypertension Disparities Reduction Program Grant Review.

Date: June 1, 2015.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn—Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Neonatal and Pediatric Blood Testing Platform.

Date: June 1, 2015.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael P. Reilly, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–496–9659, *reillymp@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI/NINDS & PCORI—Hypertension Disparities Reduction Program Research Coordinating Unit Review.

Date: June 1, 2015.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn—Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 5, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11235 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI T32 Institutional Training Grants.

Date: June 3, 2015.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie L Constant, Ph.D. Scientific Review Officer, Office of

Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784 *constantsl@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Community Asthma Empowerment.

Date: June 5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Charles Joyce, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288 *cjoyce@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Cystic Fibrosis Transmembrane Conductance Regulator—Directed Therapeutics.

Date: June 5, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–435–0725, *kristen.page@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 5, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11234 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Epidemiology, Prevention and Behavior Research Subcommittee.

Date: June 1, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, NIH 5635 Fishers Lane, Terrace Level Conference Room T–508/509, Rockville, MD 20852.

Contact Person: Katrina Foster, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane, Room 2019, Rockville, MD 20852, (301) 443–4032, *katrina@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Clinical, Treatment and Health Services Research Review Subcommittee.

Date: June 2, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, NIH, 5635 Fishers Lane, Terrace Level Conference Room T–508/509, Rockville, MD 20852.

Contact Person: Katrina Foster, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane, Room 2019, Rockville, MD 20852, (301) 443–0800, *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: May 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–11240 Filed 5–8–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0390]

National Offshore Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the National Offshore Safety Advisory Committee. The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

DATES: Completed applications should reach the Coast Guard on or before *July 10, 2015*.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the National Offshore Safety Advisory Committee that also identifies which membership category the applicant is applying under, along with a resume detailing the applicant's experience via one of the following methods:

- *By Email: Scott.E.Hartley@uscg.mil.*
- *By Fax:* (202) 372–8382.
- *By Mail:* Mr. Scott E. Hartley, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant, (CG–OES–2)/NOSAC U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: Mr. Scott E. Hartley, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant, (CG–OES–2)/NOSAC U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509; email *Scott.E.Hartley@uscg.mil;* telephone (202) 372–1437; fax (202) 372–8382.

SUPPLEMENTARY INFORMATION: The National Offshore Safety Advisory Committee name is a Federal advisory committee established in accordance with the provisions of the Federal Advisory Committee Act, (5 U.S.C. Appendix) to advise the Secretary of Department of Homeland Security on matters relating to activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

The Committee expects to meet twice a year: April in New Orleans, LA, and November in Houston, TX. Each National Offshore Safety Advisory Committee member serves a term of office up to three (3) years. Members may be considered to serve a maximum of two consecutive terms. All members serve at their own expense and receive no salary or reimbursement of travel expenses, or other compensation from the Federal Government.

We will consider applications for the four positions listed below that will become vacant on January 31, 2016:

(a) One member representing companies, organizations, enterprises, or similar entities engaged in offshore operations, who should have recent practical experience on vessels or units involved in the offshore industry;

(b) One member representing companies, organizations, enterprises, or similar entities providing subsea engineering, construction or remotely operated vehicle support to the offshore industry;

(c) One member representing companies, organizations, enterprises, or similar entities providing diving services to the offshore industry; and

(d) One member of the general public.

To be eligible, applicants for positions (a), (b) or (c) should be employed by companies, organizations, enterprises or similar entities, have expertise, knowledge and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for, and the recovery of, offshore mineral resources.

The General Public Member, position (d), will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18 United States Code. As a candidate for appointment as a Special Government Employee, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). Coast Guard may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed above in **FOR FURTHER INFORMATION CONTACT**. Applications for the General Public Member which are not accompanied by a completed OGE Form 450 will not be considered.

Registered lobbyists are not eligible to serve on Federal advisory committees in an individual capacity. See ''Revised Guidance on Appointment of Lobbyist to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). The position we list for a member from the General Public would be someone appointed in their individual capacity and would be designated a Special Government Employee as defined in 202 (a) of Title 18, United States Code. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; as amended by Title II of Pub. L. 110–81).

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Scott Hartley, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee by email or mail according to instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice.

Note, that during the vetting process, applicants may be asked to provide their date of birth and social security number. All email submittals will receive email receipt confirmation.

To visit our online docket, go to *http://www.regulations.gov* enter the docket number for this notice (USCG–2015–xxxx) in the Search box, and click ''Search''. Please do not post your resume, or Confidential Financial Disclosure Report (OGE 450 Form) if applying for member of the general public position, on this site.

Dated: May 5, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2015–11296 Filed 5–8–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0103]

Agency Information Collection Activities: Passenger List/Crew List (CBP Form I–418)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; reinstatement of a previously approved 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: Passenger List/Crew List (CBP Form I–418). CBP is proposing that this information collection be reinstated with a 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 10, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

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: This proposed information collection was previously published in the **Federal Register** (80 FR 516) on January 6, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs 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: Passenger List/Crew List.

OMB Number: 1651–0103.

Form Number: Form I–418.

Abstract: CBP Form I–418 is prescribed by CBP, for use by masters, owners, or agents of vessels in complying with Sections 231 and 251 of the Immigration and Nationality Act (INA). This form is filled out upon arrival and departure of any person by commercial vessel at any port within the United States from any place outside the United States. The master or commanding officer of the vessel is responsible for providing CBP officers at the port of arrival and departure with lists or manifests of the persons on board such conveyances. CBP is currently working to allow for electronic submission of the information on CBP Form I–418. This form is provided for in 8 CFR 251.1, and 251.3. A copy of CBP Form I–418 can be found at *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20I-418.pdf.*

Current Actions: This submission is being made to reinstate this previously approved information collection with a change to the burden hours resulting from updated estimates of the number of I–418s filed. There are no changes to the information collected or to Form I–418.

Type of Review: Reinstatement (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 48,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Hours: 48,000.

Dated: May 6, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–11335 Filed 5–8–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2015–0021]

Privacy Act of 1974; Department of Homeland Security U.S. Customs and Border Protection-007 Border Crossing Information System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/U.S. Customs and Border Protection-007 Border Crossing Information(BCI) System of Records.'' This system of records allows U.S. Customs and Border Protection to collect and maintain records on border crossing information for all individuals who enter, are admitted or paroled into, and (when available) exit from the United States, regardless of method or conveyance. Border crossing information includes certain biographic and biometric information; photographs; certain mandatory or voluntary itinerary information provided by air, sea, bus, and rail carriers or any other forms of passenger transportation; and the time and location of the border crossing.

This system of records notice was previously published in the **Federal Register** on May 28, 2013 (78 FR 31958). A Final Rule exempting portions of this system from certain provisions of the Privacy Act was published on February 3, 2010, and remains in effect (75 FR 5491). The Department of Homeland Security/U.S. Customs and Border Protection is updating the categories of records to include the capture of biometric information including digital fingerprints, photographs, and iris scans at the border as part of the Department's ongoing effort to better reflect the categories of records in its collection of information. U.S. Customs and Border Protection also is updating the system of records notice to include the collection of records, including photographs of scars, marks, tattoos, and palm prints from individuals in connection with the biometric sharing between the Integrated Automated Fingerprint Identification System/Next Generation Identification of the Department of Justice/Federal Bureau of Investigation and the Department of Homeland Security Automated Biometric Identification System information technology platform. Finally, U.S. Customs and Border Protection is updating the categories of records collected from an associated Advance Passenger Information System transmission to accurately represent collection of personally identifiable information at the border.

The Department of Homeland Security/U.S. Customs and Border Protection is updating this system of records notice to provide notice of the collection of biometric information from U.S. citizens and certain aliens upon arrival to, and departure from, the United States.

The exemptions for the existing system of records notice published May 28, 2013 (78 FR 31958) continue to apply for this updated system of records for those categories of records listed in the previous BCI System of Records Notice. However, U.S. Customs and Border Protection will issue an updated notice and Final Rule to address that certain records ingested from the Advance Passenger Information System (APIS) (see DHS/CBP–005 Advance Passenger Information System (APIS) SORN, 80 FR 13407 (March 13, 2015)) will continue to be covered by the exemptions claimed for those records in that system pursuant to 5 U.S.C. 552a(j)(2) and 5 U.S.C. 552a(k)(2). The Department of Homeland Security will include this system in its inventory of record systems.

DATES: This updated system will be effective upon the public display of this notice. Although this system is effective upon publication, DHS will accept and consider comments from the public and evaluate the need for any revisions to this notice.

ADDRESSES: You may submit comments, identified by docket number DHS–2015–0021 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: John Connors (202) 344–1610, Privacy Officer, U.S. Customs and Border Protection, Privacy and Diversity Office, 1300 Pennsylvania Avenue, Washington, DC 20229. For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of

Homeland Security (DHS), U.S. Customs and Border Protection (CBP) proposes to update and reissue a current DHS system of records titled, ''DHS/CBP–007 Border Crossing Information System of Records.'' CBP is updating categories of records for this system of records notice (SORN) to better reflect the categories of records in the DHS/CBP Border Crossing Information system.

CBP's priority mission is to prevent terrorists and terrorist weapons from entering the country while facilitating legitimate travel and trade. To facilitate this mission, CBP maintains border crossing information about all individuals who enter, are admitted or paroled into, and (when available) exit from the United States regardless of method or conveyance. Border crossing information includes certain biographic and biometric information; photographs; certain mandatory or voluntary itinerary information provided by air, sea, bus, and rail carriers or any other forms of passenger transportation; and the time and location of the border crossing. Border crossing information resides on the TECS (not an acronym) information technology platform. DHS/CBP is updating this system of records to provide notice to the public about the update and expansion of the categories of records as part of DHS's ongoing effort to better reflect the categories of records in its collection of information. DHS/CBP previously published this system of records notice in the **Federal Register** on May 28, 2013 (78 FR 31958).

CBP is responsible for collecting and reviewing border crossing information from travelers entering and departing the United States as part of DHS/CBP's overall border security and enforcement missions. All individuals crossing the border are subject to CBP processing upon arrival in the United States. Each traveler entering the United States is required to establish his or her identity, nationality, and admissibility, as applicable, to the satisfaction of a CBP officer during the clearance process. To manage this process, CBP creates a record of an individual's admission or parole into the United States at a particular time and port of entry. CBP also collects information about U.S. citizens and certain aliens (in-scope travelers pursuant to 8 CFR 215.8, ''requirements for biometric identifiers from aliens on departure from the United States'') upon departure from the United States for law enforcement purposes and to document their border crossing.

DHS is statutorily mandated to create and integrate an automated entry and exit system that records the arrival and departure of aliens, verifies alien identities, and authenticates alien travel documents through the comparison of biometric identifiers (8 U.S.C. 1365(b)). Certain aliens may be required to provide biometrics (including digital fingerprint scans, palm prints, photographs, facial and iris images, or other biometric identifiers) upon arrival in or departure from the United States. The biometric data is stored in the Automated Biometric Identification System (IDENT) information technology platform. IDENT stores and processes biometric data (*e.g.,* digital fingerprints, palm prints, photographs, and iris scans) and links biometrics with biographic information to establish and verify identities. The IDENT information technology platform serves as the biometric repository for the Department, and also stores related biographic information.

Previously DHS established the United States Visitor and Immigrant Status Indicator Technology (US–VISIT) Program to manage an automated entry and exit system. On March 16, 2013, US–VISIT's entry and exit operations (including deployment of a biometric exit system) were transferred to CBP through the Consolidated and Further Continuing Appropriations Act of 2013 (Pub. L. 113–6, H.R. 933). The Act also transferred US–VISIT's overstay analysis function to U.S. Immigration and Customs Enforcement (ICE) and US–VISIT's biometric identity management services to the Office of Biometric Management (OBIM), which is a newly-created office within the National Protection and Programs Directorate (NPPD). CBP assumed biometric entry and exit operations on April 1, 2013.

CBP continues to develop mechanisms to collect biometric information from departing aliens since assuming responsibility for US–VISIT's entry and exit operations. During these operations, CBP officers may employ technology (*e.g.* wireless handheld devices or standalone kiosk) to collect biographic and biometric information from certain aliens determined to be in-scope pursuant to 8 CFR 215.8 ''Requirements for biometric identifiers from aliens on departure from the United States'' prior to exiting the United States. Biometrics are checked against the IDENT system's watchlist of known or suspected terrorists (KST), criminals, and immigration violators to help determine if a person is using an alias or attempting to use fraudulent identification. Biographic and biometric data is encrypted when it is collected and the data is transmitted in an encrypted format to the IDENT system. The data is automatically deleted from the mobile device after the transmission is complete. The handheld mobile devices incorporate strict physical and procedural controls, such as Federal Information Processing Standard (FIPS)-compliant data encryption; residual information removal; and required authorization for users to sign-in using approved user account names and passwords.

Collection of additional biometric information from individuals crossing the border (such as information regarding scars, marks, tattoos, and palm prints) aids biometric sharing between the Department of Justice (DOJ) Integrated Automated Fingerprint Identification System (IAFIS)/Next Generation Identification (NGI) and the IDENT system. The end result is enhanced access to (and in some cases acquisition of) IAFIS/NGI information by the IDENT system and its users. DHS, DOJ/FBI, and the Department of State (DOS)/Bureau of Consular Services entered into a Memorandum of Understanding (MOU) for Improved Information Sharing Services in 2008. The MOUs established the framework for sharing information in accordance with an agreed-upon technical solution for expanded IDENT/IAFIS/NGI interoperability, which provides access to additional data for a greater number of authorized users.

CBP collects border crossing information stored in this system of records through a number of sources, for example: (1) Travel documents (*e.g.,* a foreign passport) presented by an individual at a CBP port of entry when he or she provided no advance notice of the border crossing to CBP; (2) carriers that submit information in advance of travel through the Advance Passenger Information System (APIS); (3) information stored in the Global Enrollment System (GES) (see DHS/CBP–002 Global Enrollment System (GES) SORN, 78 FR 3441, (January 16, 2013)) as part of a trusted or registered traveler program; (4) non-federal governmental authorities that issued valid travel documents approved by the Secretary of DHS (*e.g.,* an Enhanced Driver's License (EDL)); (5) another federal agency that issued a valid travel document (*e.g.,* data from a DOS visa, passport including passport card, or Border Crossing Card); or (6) the Canada Border Services Agency (CBSA) pursuant to the Beyond the Border Entry/Exit Program. When a traveler enters, is admitted to, paroled into, or departs from the United States, his or her biographical information, photograph (when available), and crossing details (time and location) is maintained in accordance with the

DHS/CBP–007 Border Crossing Information SORN.

DHS/CBP is updating the categories of records to provide notice that CBP is collecting biometrics such as digital fingerprints, photographs, and iris scans from certain non-U.S. citizens at the time of the border crossing or in support of their use of Global Entry or another trusted traveler program. In addition, CBP is updating the categories of records in the SORN to provide notice that CBP plans to collect information regarding scars, marks, tattoos, and palm prints from individuals at the border to aid biometric interoperability between the IAFIS/NGI and the IDENT system. Finally, CBP is updating the categories of records associated with APIS transmissions to better reflect the information collected and maintained in the DHS/CBP–007 BCI SORN.

Consistent with DHS's information sharing mission, information stored in the DHS/CBP–007 BCI SORN may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions.

The exemptions for the existing system of records notice published May 28, 2013 (78 FR 31958) continue to apply for this updated system of records for those categories of records listed in the previous System of Records Notice. However, several new categories of records may contain law enforcement sensitive information. Due to the nature of this information, CBP will issue an updated notice and final rule for proposed exemptions for these new categories of records pursuant to 5 U.S.C. 552a(j)(2) and 5 U.S.C. 552 a(k)(2). Furthermore, to the extent certain categories of records are ingested from other systems, the exemptions applicable to the source systems will remain in effect.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which the Federal Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/CBP–007 Border Crossing Information (BCI) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–007.

SYSTEM NAME:

DHS/CBP–007 Border Crossing Information (BCI).

SECURITY CLASSIFICATION:

Unclassified, Sensitive, For Official Use Only (FOUO), and Law Enforcement-Sensitive (LES).

SYSTEM LOCATION:

CBP maintains records at CBP Headquarters in Washington, DC and at field offices. This computer database is located at CBP National Data Center (NDC) in Washington, DC. Computer terminals are located at customhouses, border ports of entry, airport inspection facilities under the jurisdiction of DHS, and other locations at which DHS authorized personnel may be posted to facilitate DHS's mission. Terminals may also be located at appropriate facilities for other participating government agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with records stored in BCI includes U.S. citizens, lawful permanent residents (LPR), and immigrant and non-immigrant aliens who lawfully cross the U.S. border by air, land, or sea, regardless of method of transportation or conveyance.

CATEGORIES OF RECORDS IN THE SYSTEM:

CBP collects and stores the following records in the BCI system as border crossing information:

- Full name (last, first, and, if available, middle);
- Date of birth;
- Gender;
- Travel document type and number (*e.g.,* passport information, permanent resident card, Trusted Traveler Program card);
- Issuing country or entity and expiration date;
- Photograph (when available);
- Country of citizenship;
- Tattoos;
- Scars;
- Marks;
- Palm prints;
- Digital fingerprints;
- Photographs;
- Digital iris scans;
- Radio Frequency Identification (RFID) tag number(s) (if land or sea border crossing);
- Date and time of crossing;
- Lane for clearance processing;
- Location of crossing;
- Secondary Examination Status; and
- For land border crossings only, License Plate number or Vehicle Identification Number (VIN) (if no plate exists).

CBP maintains in BCI information derived from an associated APIS transmission (when applicable), including:

- Full name (last, first, and, if available, middle);
- Date of birth;
- Gender;
- Country of citizenship;
- Passport/alien registration number and country of issuance;
- Passport expiration date;
- Country of residence;
- Status on board the aircraft;
- Travel document type;
- United States destination address (for all private aircraft passengers and crew, and commercial air, rail, bus, and vessel passengers except for U.S. Citizens, LPRs, crew, and those in transit);
- Place of birth and address of permanent residence (commercial flight crew only);
- Pilot certificate number and country of issuance (flight crew only, if applicable);
- Passenger Name Record (PNR) locator number;
- Primary inspection lane;
- ID inspector;
- Records containing the results of comparisons of individuals to information maintained in CBP's law enforcement databases as well as information from the Terrorist Screening Database (TSDB);
- Information on individuals with outstanding wants or warrants; and
- Information from other government agencies regarding high risk parties.

CBP collects records under the Entry/Exit Program with Canada, such as border crossing data from the CBSA, including:

- Full name (last, first, and if available, middle);
- Date of Birth;
- Nationality (citizenship);
- Gender;
- Document Type;

- Document Number;
- Document Country of Issuance;
- Port of entry location (Port code);
- Date of entry; and
- Time of entry.

In addition, air and sea carriers or operators covered by the APIS rules and rail and bus carriers (to the extent voluntarily applicable) also transmit or provide the following information to CBP for retention in BCI:

- Airline carrier code;
- Flight number;
- Vessel name;
- Vessel country of registry/flag;
- International Maritime Organization number or other official number of the vessel;
- Voyage number;
- Date of arrival/departure;
- Foreign airport/port where the passengers and crew members began their air/sea transportation to the United States;
- For passengers and crew members destined for the United States:
  - The location where the passengers and crew members will undergo customs and immigration clearance by CBP.
- For passengers and crew members who are transiting through (and crew on flights over flying) the United States and not clearing CBP:
  - The foreign airport/port of ultimate destination; and
  - Status on board (whether an individual is crew or non-crew).
- For passengers and crew departing the United States:
  - Final foreign airport/port of arrival.

Other information also stored in this system of records includes:

- Aircraft registration number provided by pilots of private aircraft;
- Type of aircraft;
- Call sign (if available);
- CBP issued decal number (if available);
- Place of last departure (*e.g.,* ICAO airport code, when available);
- Date and time of aircraft arrival;
- Estimated time and location of crossing U.S. border or coastline;
- Name of intended airport of first landing, if applicable;
- Owner or lessee name (first, last, and middle, if available, or business entity name);
- Owner or lessee contact information (address, city, state, zip code, country, telephone number, fax number, and email address, pilot, or private aircraft pilot name);
- Pilot information (license number, street address (number and street, city state, zip code, country, telephone number, fax number, and email address));
- Pilot license country of issuance;
- Operator name (for individuals: last, first, and middle, if available; or name of business entity, if available);
- Operator street address (number and street, city, state, zip code, country, telephone number, fax number, and email address);
- Aircraft color(s);
- Complete itinerary (foreign airport landings within 24 hours prior to landing in the United States);
- 24-hour emergency point of contact information (*e.g.,* broker, dispatcher, repair shop, or other third party who is knowledgeable about this particular flight)
  - Full name (last, first, and middle (if available)) and telephone number;
- Incident to the transmission of required information via eAPIS (for general aviation itineraries, pilot, and passenger manifests), records will also incorporate the pilot's email address.

To the extent private aircraft operators and carriers operating in the land border environment may transmit APIS, similar information may also be recorded in BCI by CBP with regard to such travel. CBP also collects the license plate number of the conveyance (or VIN number when no plate exists) in the land border environment for both arrival and departure (when departure information is available).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for BCI is provided by the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. 107–173, 116 Stat. 543 (2002)); the Aviation and Transportation Security Act of 2001 (Pub. L. 107–71, 115 Stat. 597); the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458, 118 Stat. 3638 (2004)); the Immigration and Nationality Act, as amended (8 U.S.C. 1185 and 1354); and the Tariff Act of 1930, as amended (19 U.S.C. 1322–1683g, including 19 U.S.C. 66, 1433, 1454, 1485, 1624 and 2071).

PURPOSE(S):

CBP collects and maintains this information to vet and inspect persons arriving in or departing from the United States; to determine identity, citizenship, and admissibility; and to identify persons who: (1) May be (or are suspected of being) a terrorist or having affiliations to terrorist organizations; (2) have active warrants for criminal activity; (3) are currently inadmissible or have been previously removed from the United States; or (4) have been otherwise identified as potential security risks or raise a law enforcement concern. For immigrant and non-immigrant aliens, the information is also collected and maintained to ensure information related to a particular border crossing is available for providing any applicable benefits related to immigration or other enforcement purposes. Lastly, CBP maintains information in BCI to retain a historical record of persons crossing the border to facilitate law enforcement, counterterrorism, and benefits processing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any Component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an

individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To appropriate federal, state, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when DHS believes the information would assist enforcement of applicable civil or criminal laws.

I. To the CBSA for law enforcement and immigration purposes, as well as to facilitate cross-border travel when an individual enters the United States from Canada.

J. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations when DHS reasonably believes there to be a threat (or potential threat) to national or international security for which the information may be relevant in countering the threat (or potential threat).

K. To a federal, state, tribal, or local agency, other appropriate entity or individual, or foreign governments, in order to provide relevant information related to intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

L. To an organization or individual in either the public or private sector (foreign or domestic) when there is a reason to believe that the recipient is (or could become) the target of a particular terrorist activity or conspiracy, or when the information is relevant and necessary to the protection of life or property.

M. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purposes of protecting the vital interests of the data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease, to combat other significant public health threats, or to provide appropriate notice of any identified health threat or risk.

N. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings.

O. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation.

P. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations when DHS is aware of a need to use relevant data for purposes of testing new technology.

Q. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

CBP stores records in this system electronically in the operational system or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, digital media and CD–ROM.

RETRIEVABILITY:

CBP retrieves records by name or other personal identifiers listed in the categories of records, above.

SAFEGUARDS:

DHS/CBP safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is being stored. CBP limits access to BCI to those individuals who have a need to know the information for the performance of their official duties and who also have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

CBP is working with NARA to develop the appropriate retention schedule based on the information below. For persons CBP determines to be U.S. citizens and LPRs, information in BCI that is related to a particular border crossing is maintained for 15 years from the date when the traveler entered, was admitted to or paroled into, or departed the United States, at which time it is deleted from BCI. For non-immigrant aliens, the information will be maintained for 75 years from the date of admission or parole into or departure from the United States in order to ensure that the information related to a particular border crossing is available for providing any applicable benefits related to immigration or for other law enforcement purposes.

Information related to border crossings prior to a change in status will follow the 75 year retention period for non-immigrant aliens who become U.S. citizens or LPRs following a border crossing that leads to the creation of a record in BCI. All information regarding border crossing by such persons following their change in status will follow the 15 year retention period applicable to U.S. citizens and LPRs. For all travelers, however, BCI records linked to active law enforcement lookout records, DHS/CBP matches to enforcement activities, or investigations or cases remain accessible for the life of the primary records of the law

enforcement activities to which the BCI records may relate, to the extent retention for such purposes exceeds the normal retention period for such data in BCI.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

DHS allows persons (including foreign nationals) to seek administrative access under the Privacy Act to information maintained in BCI. However, the Secretary of DHS exempted portions of this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. Nonetheless, DHS/CBP will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the DHS Chief Freedom of Information Act (FOIA) Officer or CBP FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one Component maintains Privacy Act records that concern him or her, the individual may submit the request to the Chief Privacy Officer and Chief FOIA Officer, Department of Homeland Security, 245 Murray Lane SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. Although no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which Component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS Component agency may have responsive records

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, CBP may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

BCI receives information from individuals who arrive in, depart from, or transit through the United States. This system also collects information from carriers that operate vessels, vehicles, aircraft, or trains that enter or exit the United States, including private aircraft operators. Lastly, BCI receives border crossing information received from CBSA.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption shall be asserted with respect to information maintained in the system that is *collected from a person* at the time of crossing and submitted by that person's air, sea, bus, or rail carriers if that person, or his or her agent, seeks access or amendment of such information.

The Privacy Act, however, requires DHS to maintain an accounting of the disclosures made pursuant to all routines uses. Disclosing the fact that a law enforcement or intelligence agency has sought particular records may affect ongoing law enforcement activities. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), exempted this system from the following provisions of the Privacy Act: Sections (c)(3), (e)(8), and (g) of the Privacy Act of 1974, as amended, as is necessary and appropriate to protect this information. Further, DHS has exempted section (c)(3) of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(k)(2) as is necessary and appropriate to protect this information.

Additionally, this system contains records or information recompiled from or created from information contained in other systems of records that are exempt from certain provision of the Privacy Act. This system also contains accountings of disclosures made with respect to information maintained in the system. For these records or information only, in accordance with 5 U.S.C. 552a(j)(2) and (k)(2), DHS will also claim the original exemptions for these records or information from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f); and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information.

Dated: May 1, 2015.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2015–11288 Filed 5–8–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5696–N–14]

Guidance and Instructions for Extension Requests of 24-Month Expenditure Deadline for Community Development Block Grant Disaster Recovery (CDBG–DR) Grantees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice advises Community Development Block Grant disaster recovery (CDBG–DR) grantees with grants pursuant to the Disaster Relief Appropriations Act, 2013 (the Appropriations Act) of the process and requirements associated with grantee requests for an extension of the 24-month expenditure deadline for specific portions of funds obligated under the Appropriations Act.

DATES: *Effective Date:* May 18, 2015.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Facsimile inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.) Email inquiries may be sent to *disaster_recovery@hud.gov.*

SUPPLEMENTARY INFORMATION:

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I. Applicability

The requirements of this Notice are applicable to all CDBG disaster recovery (CDBG–DR) grants funded pursuant to the Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2, approved January 29, 2013) and do not apply to any CDBG–DR grants funded pursuant to other supplemental appropriations.

II. Background

The Appropriations Act made available $16 billion in CDBG–DR funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et. seq.*) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. On March 1, 2013, the President issued a sequestration order pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced the amount of funding for CDBG–DR grants under the Appropriations Act to $15.18 billion. To date, a total of $15.18 billion has been allocated or set aside: $13 billion in response to Hurricane Sandy, $514 million in response to disasters occurring in 2011 or 2012, $655 million in response to 2013 disasters, and $1 billion set aside for the National Disaster Resilience Competition.

This Notice establishes submission instructions for expenditure deadline extension requests and other related requirements for grantees in receipt of allocations under the Appropriations Act, which are described within the **Federal Register** Notices published by HUD on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), May 29, 2013 (78 FR 32262), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), March 27, 2014 (79 FR 17173), June 3, 2014 (79 FR 31964), July 11, 2014 (79 FR 40133), October 7, 2014 (79 FR 60490), October 16, 2014 (79 FR 62182), January 8, 2015 (80 FR 1039), and April 2, 2015 (80 FR 17772) referred to collectively in this Notice as the ''Prior Notices.'' The requirements of the Prior Notices continue to apply, except as modified by this Notice.[1]

The Appropriations Act requires HUD to obligate all funds provided under the Appropriations Act by September 30, 2017. The Appropriations Act also requires that grantees expend funds within 24 months of the date on which HUD obligates funds to a grantee. Funds are obligated to a grantee on the date that HUD signs a grantee's CDBG- DR grant agreement or grant agreement amendment obligating additional funds. Each obligation carries its own expenditure deadline. For each obligation to a grantee, any funds remaining in the grantee's line of credit from that obligation at the time of the expenditure deadline for that obligation will be returned to the U.S. Treasury, or if before September 30, 2017, will be recaptured by HUD. In all instances, grantees must continue to meet the requirements for Federal cash management at 24 CFR 85.20(a)(7), as may be amended, and therefore may not draw down funds in advance of need to attempt to comply with the expenditure deadline in accordance with HUD's long-standing implementation of this requirement.

Section 904(c) of the Appropriations Act authorizes the Office of Management and Budget (OMB) to grant waivers of the 24-month expenditure deadline. To implement this provision of the Appropriations Act, OMB requested Federal agencies receiving an appropriation under the Appropriations Act to identify categories of activities that could be subject to a waiver of the 24-month expenditure deadline. OMB also requested that agencies estimate, for each category of activity, the total amount of funds provided under the Appropriations Act that would likely require a waiver. HUD submitted an analysis of different categories of CDBG–DR activities that would likely necessitate a waiver of the expenditure deadline to OMB. OMB authorized HUD to provide CDBG–DR grantees with expenditure deadline extensions for activities that are inherently long-term and where it would be impracticable to expend funds within the 24-month period and still achieve program missions.

Although HUD has authority to grant extensions of the 24-month expenditure deadline up to amounts approved by OMB for each of the activity categories described in Section III of this Notice, grantees are advised that 31 U.S.C. 1552(a) continues to apply to funds appropriated under the Appropriations Act. Specifically, CDBG–DR funds are to remain available for expenditure for five years following the period of availability for obligation. All funds under the Appropriations Act, including those subject to a waiver of the expenditure deadline, must be expended by September 30, 2022. Any grant funds that have not been disbursed by September 30, 2022, will be canceled and will no longer be available for disbursement to the grantee for obligation or expenditure for any purpose.

III. Eligible Activities

The National Disaster Recovery Framework acknowledges that long-term recovery is inherently a multi-year process. HUD recognizes that grantees allocate a significant portion of CDBG–DR funds to complex and large-scale programs and projects that are long-term in nature. HUD also recognizes that grantees will require CDBG–DR administrative funds to conduct grant closeout and engage in ongoing program oversight, and that these efforts will inevitably extend beyond the 24-month expenditure deadline that applies to each obligation.

As authorized by OMB, HUD will limit its consideration of expenditure deadline extension requests to certain types of eligible disaster recovery activities undertaken by grantees. HUD will consider grantee programs and projects within the following four categories for expenditure deadline extensions:

- *Public facilities and improvements.* Typical public facilities and improvement activities include the rehabilitation, replacement, or relocation of damaged public facilities and improvements, as well as investments to increase the resilience of those facilities and improvements.
- *Housing.* Typical housing activities include new construction, elevation, and rehabilitation of single family or multifamily residential units.
- *Economic revitalization.* Economic revitalization activities often include the provision of loans and grants to small businesses, job training programs, the construction of education facilities to teach technical skills, making improvements to commercial or retail

[1] Links to the Prior Notices, the text of the Appropriations Act, and additional guidance prepared by HUD for CDBG–DR grants, are available on the HUD Exchange Web site: *https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/.*

districts, and financing other efforts that attract and retain workers in disaster-impacted communities.

• *Grant administration.* Typical administrative activities include salaries, wages, and related costs of grantee or subrecipient staff and others engaged in program management, monitoring, and evaluation. Administrative costs are limited by the Appropriations Act to five percent of each grantee's total allocation.

IV. Timeline for Submission

The process for any funds that the grantee believes will not be expended by the 24-month expenditure deadline, as outlined in Section III of each of the prior **Federal Register** Notices published by HUD on March 5, 2013 (78 FR 14329), May 29, 2013 (78 FR 32262), November 18, 2013 (78 FR 69104), December 16, 2013 (78 FR 76154), June 3, 2014 (79 FR 31964), and October 16, 2014 (79 FR 62185), is hereby revised as follows:

''The Appropriations Act requires that funds be expended within two years of the date HUD obligates funds to a grantee; and funds are obligated to a grantee upon HUD's signing of a grantee's CDBG–DR grant agreement. In its Action Plan, a grantee must demonstrate how funds will be fully expended within two years of obligation and HUD must obligate all funds not later than September 30, 2017. For any funds that the grantee believes will not be expended by the 24-month deadline and that it desires to retain, the grantee must submit an extension request in a form acceptable to HUD not less than 120 calendar days in advance of the date of the expenditure deadline on those funds justifying why it is necessary to extend the deadline for a specific portion of the funds. In consideration of the timeline for funds with expenditure deadlines in 2015, extension requests for those funds must be submitted to HUD not less than 60 calendar days in advance of the date of the expenditure deadline on those funds. OMB has provided HUD with authority to act on grantee extension requests but grantees are cautioned that such extensions may not be approved. If granted, extensions will be published in the **Federal Register**. Funds remaining in the grantee's line of credit at the time of its expenditure deadlines will be recaptured by HUD.''

V. Requirements for Submission

Grantees seeking an extension of the 24-month deadline for a project or program must provide HUD with detailed information on the compelling legal, policy, or operational challenges that prevent the grantee from meeting the expenditure deadline as well as identify the proposed date for the full expenditure of the specified portion of funds.

To expedite the review process, HUD has developed a CDBG–DR Expenditure Deadline Extension Request template. Grantees must submit one template per program or project for which a revised expenditure deadline is being requested. In certain cases, HUD may request that a grantee resubmit this template at a project-level if information provided at the programmatic level is insufficient for HUD to assess whether the request meets HUD's criteria for approving an extension, as outlined in Section VII below. This template will ensure that each request captures all of the requirements outlined in this Notice. The template will be posted at: *https://www.hudexchange.info/cdbg-dr/.* Each grantee must include the following elements, as delineated within the CDBG–DR Expenditure Deadline Extension Request template, as part of its submission:

(1) A description of the individual program or project for which an extension is being requested, including information on relevant Disaster Recovery Grant Reporting System (DRGR) activity(ies).

(2) An explanation for why an extension is being requested, including all relevant and compelling statutory, regulatory, policy, or operational challenges, and how the extension will promote a more effective and efficient recovery effort.

(3) Description of how the provision of an extension would reduce the likelihood of waste, fraud, and abuse, if applicable.

(4) An identification of all community stakeholders (including state or local entities, subrecipients, nonprofits, and civic organizations) to be affected by the expenditure deadline extension, their role in program or project implementation, and the impact, if any, of the extension on these stakeholders.

(5) A revised expenditure deadline for the CDBG–DR funds budgeted for the program or project (*i.e.* the DRGR 'end date') as well as a projection of quarterly expenditures for the program or project for which the waiver is requested, including incremental dollar amounts and percentage of funds budgeted for each DRGR activity. This information is required in order for HUD to ensure grantee compliance with revised expenditure deadlines in the DRGR system.

(6) A description of the risks associated with not receiving the requested extension, such as the estimated percentage of funds which would be at risk of recapture or specific recovery needs that would not be met if the particular program or project cannot be completed or undertaken.

(7) A description of the monitoring process and internal controls that the grantee and any subrecipients will implement to ensure compliance with the revised expenditure deadline.

VI. Submission Process

The submission of any grantee expenditure deadline extension request is subject to the following requirements:

• Grantee submits the completed CDBG–DR Expenditure Deadline Extension Request template and any attachments to HUD in order to request consideration of the extension request not less than 120 calendar days in advance of the expenditure deadline on the funds (or 60 days for funds expiring in calendar year 2015).

• HUD reviews the extension request within 45 (or sooner for funds expiring in calendar year 2015) calendar days from date of receipt and approves the request based on the parameters outlined in Section VII of this Notice.

• HUD sends an extension request approval letter to the grantee. HUD may disapprove the request if it is determined that it does not meet the requirements of this Notice. If the request is not approved, a letter will be sent identifying its deficiencies; the grantee must then re-submit the request within 30 calendar days (or 10 days for funds expiring in the calendar year 2015) of the notification letter;

• Within 30 calendar days of HUD's approval, the grantee amends its Action Plan for disaster recovery to reflect the approval of the revised expenditure deadline. HUD considers any Action Plan amendments to reflect revised activity expenditure timelines to be non-substantial amendments.

• Immediately following this amendment, the grantee updates its DRGR Action Plan to reflect the revised 'end date' for each DRGR activity covered by the approved waiver.

• If approved, HUD will publish the extension approval in the **Federal Register**. HUD will consolidate grantee extension approvals for publication. Therefore, extension approval is effective as of the date of the extension request approval letter, rather than as of the effective date of the published **Federal Register** notice.

VII. Criteria for Approval

Under the authority provided to HUD by OMB, HUD will consider expenditure deadline extension requests for projects or programs based on the Secretary's determination that the extension is necessary and that the request meets the conditions set forth by OMB. HUD will assess extension requests using the following criteria:

(1) The program or project must be approved in the grantee's Action Plan

for disaster recovery prior to the grantee's submission of an expenditure deadline extension request to HUD.

(2) The CDBG–DR funds associated with the program or project must have been obligated by HUD through a grant agreement, and, therefore, be subject to an established expenditure deadline.

(3) The information submitted on the CDBG–DR Expenditure Deadline Extension Request template is comprehensive and complete to the satisfaction of HUD, as outlined in Section V of this Notice.

(4) The revised expenditure deadline for the CDBG–DR funds budgeted for the program or project (*i.e.* the DRGR 'end date') as well as the projection of quarterly expenditures are determined to be achievable based on the grantee's past performance and expenditure rate.

(5) The grantee's capacity to implement monitoring processes and internal controls as outlined by the grantee in the template are sufficient to ensure compliance with the revised expenditure deadline.

(6) The grantee has demonstrated that it has evaluated all reasonable alternatives prior to determining that an extension is the only remaining viable alternative.

(7) HUD can determine, based on the grantee's submission, that the program or project covered by the request satisfies the OMB criteria for activities that are long-term by design, where it is impracticable to expend funds within the 24-month period and achieve program missions, and any other criteria imposed by OMB.

Regardless of the criteria outlined in this section, HUD retains the authority to deny requested extensions or to provide alternative expenditure deadlines to those proposed by grantees.

VIII. Applicable Rules and Considerations

This section of the Notice describes other requirements that grantees should consider prior to requesting an extension of the of the 24-month expenditure deadline for CDBG–DR programs and projects.

1. *Urgent need national objective certification requirements.* In HUD's March 5, 2013 Notice (78 FR 14329), grantees receiving funds under the Appropriations Act were provided a waiver of the certification requirements for the documentation of the urgent need national objective, located at§§ 570.208(c) and 570.483(d), until two years after the date HUD obligates funds to a grantee. Grantees seeking a waiver of the expenditure deadline may simultaneously seek an extension of the urgent need certification waiver. However, a grantee's request for an urgent need waiver must demonstrate to HUD that an extension of the urgent need certification waiver for those funds is necessary for recovery and that that remaining needs remain urgent, despite the passage of time since the disaster. HUD may grant a waiver under the authority provided in the Appropriations Act authorizing the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD's obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of Title I of the HCD Act. If approved, the extension of the urgent need certification waiver will only become effective after its publication in in the **Federal Register**.

2. *Expenditure deadline extensions are program- and project-specific.* Any revised expenditure deadline is specific to the program or project as identified in the approval letter from HUD. Grantees may not reallocate funds with a revised expenditure deadline to other recovery programs or projects without HUD authorization. In order to reallocate such funds, the grantee must request an additional extension through the process described in Section VI of this Notice. Grant balances not used for a program or project that receives an expenditure deadline waiver will be canceled if the expenditure deadline on those funds has passed.

3. *Modifications to revised expenditure deadlines.* Under limited circumstances and subject to 31 U.S.C. 1552(a), HUD may authorize grantees to further extend the expenditure deadlines associated with recovery programs and projects. In order to revise the expenditure deadline on these funds, the grantee must request an additional extension through the process described in Section VI of this Notice.

IX. Applicability to National Disaster Resilience Competition and Rebuild by Design Projects

National Disaster Resilience Competition Projects. Projects that are funded under the Notice of Funding Availability (NOFA) for the National Disaster Resilience Competition (NDRC) (FR–5800–N–29) are not subject to the requirements of this Notice. Grantees may instead request extensions of the 24-month expenditure deadline for those projects pursuant to the requirements of the NOFA, as may be amended.

Rebuild by Design Projects. HUD will also consider extension requests for funds allocated for Rebuild by Design (RBD) Projects, funded under the eligible ''Rebuild by Design'' activity in Section VII.4.c. of the Notice published on October 16, 2014, subject to any other criteria imposed by OMB. Requests for an extension of the expenditure deadline for RBD Project funds shall be submitted pursuant to the submission process outlined in Section VI of this Notice but instead of submitting the CDBG–DR Expenditure Deadline Extension Request template, grantee submission requests must contain the information required of extension requests under the headline ''Expenditure Deadline Waivers'' in Appendix E to the NDRC NOFA, as may be amended.

X. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the disaster recovery grants under this Notice is as follows: 14.269.

XI. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

Date: May 4, 2015.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

[FR Doc. 2015–11260 Filed 5–8–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5873–D–01]

Delegation of Authority to the Chief Operations Officer

AGENCY: Office of the Deputy Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice of delegation of authority.

SUMMARY: In this notice, the Deputy Secretary delegates to the Chief Operations Officer all management and supervisory authority for the following offices: The Chief Information Officer (CIO); the Chief Human Capital Officer (CHCO); the Chief Procurement Officer (CPO); and the Chief Administrative Officer (CAO).

DATES: Effective upon date of signature.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Assistant General Counsel for Administrative Law, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 9262, Washington, DC 20410–0500, telephone number 202–402–5190. (This is not a toll-free number.) Individuals with speech or hearing impairments may access this number through TTY by calling 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Certain management and program functions will now be performed by a Chief Operations Officer (COO). These functions include executive scheduling, security and emergency planning, executive secretariat, Freedom of Information Act processing, budgeting, accounting, hiring and training employees, modernizing information technology systems, information security, protecting privacy, procurement and contracting, and disaster preparedness operations. These functions are performed in the offices of the Chief Human Capital Officer (CHCO), the Chief Information Officer (CIO), the Chief Procurement Officer (CPO), and the Chief Administrative Officer (CAO). The COO has been delegated management and program authority for these offices.

Section A. Authority

The Deputy Secretary of Housing and Urban Development hereby delegates to the Chief Operations Officer the authority to manage and supervise the following offices and functions:

1. Office of the Chief Human Capital Officer: This office is responsible for employee performance management; executive resources; human capital field support; human capital policy, planning and training; recruitment and staffing; personnel security; employee assistance program, health and wellness; employee and labor relations; pay, benefits and retirement center; human capital information systems; and budget.

2. Office of the Chief Information Officer: This office is responsible for modernizing information technology systems, information security, and protecting privacy.

3. Office of the Chief Procurement Officer: This office is responsible for all procurement and contracting activity by the Department.

4. Office of the Chief Administrative Officer: This office is responsible for facilities management services; Executive Secretariat correspondence management, processing of Freedom of Information Act requests, and disaster preparedness operations.

Section B. Authority Excepted

The authority delegated in this document does not include the authority to sue or be sued or to issue or waive regulations.

Section C. Authority to Redelegate

The Chief Operations Officer may redelegate to employees of HUD any of the authority delegated under Section A above.

Section D. Authority Superseded

This delegation revokes all previous delegations of authority from the Secretary or the Deputy Secretary to the Assistant Secretary for Administration or the Chief Operations Officer, including the Delegation of Authority to the Chief Operating Officer published in the **Federal Register** on June 14, 2011 at 76 FR 34745.

This delegation is effective immediately and until such time as this delegation is revoked. The Deputy Secretary may revoke the authority authorized herein, in whole or part, at any time.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 4, 2015.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2015–11334 Filed 5–8–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FW–HQ–WSFR–2015–N087; FVWF941009000007B–XXX–FF09W11000; FVWF51100900000–XXX–FF09W11000]

Proposed Information Collection; Wildlife and Sport Fish Grants and Cooperative Agreements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on September 30, 2015. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by July 10, 2015.

ADDRESSES: Send your comments on this IC to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0109'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Wildlife and Sport Fish Restoration Program (WSFR), U.S. Fish and Wildlife Service, administers the following financial assistance programs in whole or in part. We award most financial assistance as grants, but cooperative agreements are possible if the Federal Government will be substantially involved in carrying out the project. You can find a description of most programs in the Catalog of Federal Domestic Assistance (CFDA).

Program	CFDA No.	Authority	Implementing regulations
Clean Vessel Act	15.616	16 U.S.C. 777g(c)	50 CFR 85.

Program	CFDA No.	Authority	Implementing regulations
Coastal Wetlands Planning, Protection, and Restoration Act	15.614	16 U.S.C. 3951–3956	50 CFR 84.
Cooperative Endangered Species Conservation Fund	15.615	16 U.S.C. 1531 et seq	50 CFR 81.
Everglades Restoration *	None	Public Law 104–127; 16 U.S.C. 460 l–4 thru l–11.	None.
Fish and Wildlife Coordination and Assistance Programs (Generic)	15.664		None.
Fisheries Restoration and Irrigation Mitigation *	None	16 U.S.C. 777	None.
Highlands Conservation Program	15.667		None.
Hunter Education and Safety	15.626	16 U.S.C. 669h–1	50 CFR 80.
Landowner Incentive *	15.633	Public Law 110–5	None.
Multistate Conservation Grants	15.628	16 U.S.C. 669h–2; 16 U.S.C. 777m	None.
National Outreach and Communication	15.653	16 U.S.C. 777g(d)	None.
Research Grants (Generic)	15.650	16 U.S.C. 753a; 16 U.S.C. 460 (l–4 thru l–11); 16 U.S.C. 1531–1543.	None.
Service Training and Technical Assistance (Generic Training)	15.649	16 U.S.C. 661 and 16 U.S.C. 742f ..	None.
Sport Fish Restoration	15.605	16 U.S.C. 777–777n (except 777e–1).	50 CFR 80.
Sport Fishing and Boating Safety Act (Boating Infrastructure Grants)	15.622	16 U.S.C. 777g and g–1	50 CFR 86.
State Wildlife Grants	15.634	Public Law 110–329	None.
Tribal Landowner Incentive *	15.638	Public Law 110–5	None.
Tribal Wildlife Grants	15.639	Public Law 110–329	None.
Wildlife Conservation and Restoration *	15.625	16 U.S.C. 669b and 669c	None.
Wildlife Restoration	15.611	16 U.S.C. 669–669k	50 CFR 80.

* Program has open grants, but no new funding.

Authorities and implementing regulations establish the purposes of the grant programs and the types of projects to be funded. Some list eligibility criteria as well as activities ineligible for funding. The authorities and implementing regulations for the competitive programs establish preferences or ranking factors for the selection of projects to be funded. These legal requirements make it essential for an awarding agency to have certain information so that it funds only eligible projects, and, in the case of competitive programs, to select those projects that will result in the greatest return on the Federal investment.

Some grants are mandatory and receive funds according to a formula set by law or policy. Other grants are discretionary, and we award them based on a competitive process. Mandatory grant recipients must give us specific, detailed project information during the application process so that we can ensure that projects are eligible for the mandatory funding, are substantial in character and design, and comply with all applicable Federal laws. All grantees must submit financial and performance reports that contain information necessary for us to track costs and accomplishments.

In February 2014, OMB approved our request to use a new electronic system (Wildlife Tracking and Reporting Actions for the Conservation of Species (Wildlife TRACS)) to collect application and performance reporting information on our grant programs. OMB assigned OMB Control No. 1018–0156, which expires February 28, 2017. Wildlife TRACS allows us to take advantage of newer technology and gives applicants direct access to enter project information that can be used to submit an application through *http://www.grants.gov*. Grantees can also report performance accomplishments in Wildlife TRACS. We are including the use of Wildlife TRACS and the collection of additional information in this revision to OMB Control No. 1018–0109. If OMB approves this revision, we will discontinue OMB Control No. 1018–0156.

To apply for financial assistance funds, you must submit an application that describes in substantial detail project locations, benefits, funding, and other characteristics. Materials to assist applicants in formulating project proposals are available on Grants.gov. We use the application to determine:

- Eligibility.
- Scale of resource values or relative worth of the project.
- If associated costs are reasonable and allowable.
- Potential effect of the project on environmental and cultural resources.
- How well the proposed project will meet the purposes of the program's establishing legislation.
- If the proposed project is substantial in character and design.
- For competitive programs, how the proposed project addresses ranking criteria.

Persons or entities receiving grants must submit periodic performance reports that contain information necessary for us to track costs and accomplishments.

In addition to the information currently collected under OMB Control No. 1018–0109, we will collect the following additional information currently approved under OMB Control No. 1018–0156:

For mandatory grant program applications and amendments:

- Geospatial entry of project location.
- Project status (active, completed, etc.).
- Project leader contact information.
- Partner information.
- Objectives, including output measures and desired future values.
- Plan information (for projects connected to plans).

For all WSFR grant program projects and reports:

- The information above, as applicable to the approved grant.
- Public description.
- Action status (active, completed, etc.).
- Summary trend information, as applicable.
- Estimated costs, by action. (non-auditable).
- Effectiveness measures (initially for State Wildlife Grants).

For real property acquisition projects, information related to:

- Transactions, such as dates, method of transfer, title holder, and seller.
- Identifiers, such as State and Federal Record ID, parcel number, and property name.
- Values such as appraised value, purchase price and other cost information, and acres or acre feet.
- Encumbrances.
- Partners.

II. Data

OMB Control Number: 1018–0109.

Title: Wildlife and Sport Fish Grants and Cooperative Agreements, 50 CFR 80, 81, 84, 85, and 86.

Service Form Number: None.

Type of Request: Revision of a currently approved collection.

Description of Respondents: States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the District of Columbia; the territories of Guam, U.S. Virgin Islands, and American Samoa; federally recognized tribal governments; institutions of higher education; and nongovernmental organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: We require applications annually for new grants. We require amendments on occasion when key elements of a project change. We require quarterly and final performance reports in the National Outreach and Communication Program and annual and final performance reports in the other programs. We may require more frequent reports under the conditions stated at 2 CFR 200.205 and 2 CFR 200.207.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Initial Application (project narrative)	200	2,500	44	110,000
Revision of Award Terms (Amendment)	150	1,500	6	9,000
Performance Reports	200	3,500	12	42,000
Totals	550	7,500	.....	161,000

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 5, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–11259 Filed 5–8–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2014–0018; 96300–1671–0000–R4]

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Seventeenth Regular Meeting; Request for Information and Recommendations on Resolutions, Decisions, and Agenda Items for Consideration

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: To implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or the Convention), the Parties to the Convention meet periodically to review what species in international trade should be regulated and other aspects of the implementation of CITES. The seventeenth regular meeting of the Conference of the Parties to CITES (CoP17) is tentatively scheduled to be held in September 2016 in South Africa. With this notice we are soliciting and invite you to provide us with information and recommendations on resolutions, decisions, and agenda items that the United States might consider submitting for discussion at CoP17. In addition, with this notice we provide preliminary information on how to request approved observer status for nongovernmental organizations that wish to attend the meeting.

DATES: We will consider all information and comments we receive on or before July 10, 2015.

ADDRESSES: You may submit comments pertaining to recommendations for resolutions, decisions, and agenda items for discussion at CoP17 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2014–0018 (the docket number for this notice).
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–IA–2014–0018; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 5275 Leesburg Pike; MS: BPHC; Falls Church, VA 22041.

We will not consider comments sent by email or fax, or to an address not listed in the **ADDRESSES** section. Comments and materials we receive in response to this notice will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, 2nd Floor, Falls Church, VA 22041; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: For information pertaining to resolutions, decisions, and agenda items, contact Craig Hoover, Chief, Wildlife Trade and Conservation Branch, Division of Management Authority, at 703–358–2095 (phone), 703–358–2298 (fax), or *managementauthority@fws.gov* (email). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339. For information pertaining to species proposals, contact Rosemarie Gnam, Chief, Division of Scientific Authority, at 703–358–1708 (phone), 703–358–2276 (fax), or *scientificauthority@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to regulate international trade in certain animal and plant species that are now, or potentially may become, threatened with extinction. These species are listed in the Appendices to CITES, which are available on the CITES Secretariat's Web site at *http://www.cites.org/eng/app/appendices.php.*

Currently, 180 countries, including the United States, are Parties to CITES. The Convention calls for regular biennial meetings of the Conference of the Parties, unless the Conference decides otherwise. At these meetings, the Parties review the implementation of CITES, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II, resolutions, decisions, and agenda items for consideration by all the Parties at the meeting.

This is our second in a series of **Federal Register** notices that, together with an announced public meeting (time and place to be announced), provide you with an opportunity to participate in the development of the U.S. submissions to, and negotiating positions for, the seventeenth regular meeting of the Conference of the Parties to CITES (CoP17), which is tentatively scheduled to be held in September 2016 in South Africa. We published our first CoP17-related **Federal Register** notice on June 27, 2014 (79 FR 36550), in which we requested information and recommendations on species proposals for the United States to consider submitting for discussion at CoP17. In that notice, we also described the U.S. approach to preparations for CoP17. We intend to announce tentative species proposals that the United States is considering submitting for CoP17 and solicit further information and comments on them when we publish our next CoP17-related **Federal Register** notice. You may obtain information on species proposals by contacting the Division of Scientific Authority at the telephone number or email address provided in **FOR FURTHER INFORMATION CONTACT** above. Our regulations governing this public process are found at 50 CFR 23.87.

Request for Information and Recommendations on Resolutions, Decisions, and Agenda Items

Although we have not yet received formal notice of the provisional agenda for CoP17, we invite your input on possible agenda items that the United States could recommend for inclusion, or on possible resolutions and decisions of the Conference of the Parties that the United States could submit for consideration. Copies of the agenda and the results of the last meeting of the Conference of the Parties (CoP16) in Bangkok, Thailand, in March 2013, as well as copies of all resolutions and decisions of the Conference of the Parties currently in effect, are available on the CITES Secretariat's Web site (*http://www.cites.org/*) or from the Division of Management Authority at the address provided in the **ADDRESSES** section above.

Observers

Article XI, paragraph 7 of CITES provides: ''Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or nongovernmental, and national governmental agencies and bodies; and

(b) national nongovernmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.''

National agencies or organizations within the United States must obtain our approval to participate in CoP17, whereas international agencies or organizations must obtain approval directly from the CITES Secretariat. We will publish information in a future **Federal Register** notice on how to request approved observer status. A factsheet on the process is posted on our Web site at: *http://www.fws.gov/international/pdf/factsheet-become-observer-to-cites-meeting-2013.pdf.*

Future Actions

As stated above, the next regular meeting of the Conference of the Parties (CoP17) is tentatively scheduled to be held in South Africa in September 2016. The United States must submit any proposals to amend Appendix I or II, or any draft resolutions, decisions, or agenda items for discussion at CoP17, to the CITES Secretariat no later than 150 days (tentatively April 2016) prior to the start of the meeting. In order to meet this deadline and to prepare for CoP17, we have developed a tentative U.S. schedule. Approximately 14 months prior to CoP17, we plan to publish our next CoP17-related **Federal Register** notice announcing tentative species proposals that the United States is considering submitting for CoP17 and soliciting further information and comments on them. Following publication of that **Federal Register** notice and approximately 12 months prior to CoP17, we plan to publish a **Federal Register** notice announcing draft resolutions, draft decisions, and agenda items the United States is considering submitting for CoP17 and soliciting further information and comments on them. Approximately 4 months prior to CoP17, we will post on our Web site an announcement of the species proposals, draft resolutions, draft decisions, and agenda items submitted by the United States to the CITES Secretariat for consideration at CoP17.

Through a series of additional notices and Web site postings in advance of CoP17, we will inform you about preliminary negotiating positions on resolutions, decisions, and amendments to the Appendices proposed by other Parties for consideration at CoP17, and about how to obtain observer status from us. We will also publish an announcement of a public meeting tentatively to be held approximately 3 months prior to CoP17. That meeting will enable us to receive public input on our positions regarding CoP17 issues. The procedures for developing U.S. documents and negotiating positions for a meeting of the Conference of the Parties to CITES are outlined in 50 CFR 23.87. As noted in paragraph (c) of that section, we may modify or suspend the procedures outlined there if they would interfere with the timely or appropriate development of documents for submission to the CoP and of U.S. negotiating positions.

Author

The primary author of this notice is Mark Albert, Division of Management Authority, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: April 30, 2015.

Stephen Guertin

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–11251 Filed 5–8–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES93000—L13200000–ELOOOO–241AOO, OHES–57390]

Notice of Availability of the Buckingham Coal Company Federal Coal Lease Application Environmental Assessment and Public Hearing, Perry and Morgan Counties, OH

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with Federal coal management regulations, the Buckingham Coal Company, Federal Coal Lease by Application (LBA) Environmental Assessment (EA) is available for public review and comment. A public hearing will be held to receive comments on the EA and associated Finding of No Significant Impact (FONSI), Fair Market Value (FMV), and Maximum Economic Recovery (MER) of the coal resources for Buckingham Coal Company LBA OHES–57390.

DATES: The public hearing will be held at 7 p.m. on June 4, 2015. Written comments must be received within 30 days following the date of the public hearing.

ADDRESSES: The public hearing will be held at the Trimble High School Cafeteria, One Tomcat Drive, Glouster, Ohio 45832. Written comments on the FMV and MER should be addressed to Michael W. Glasson, BLM Eastern States, Division of Lands and Minerals, Mail Stop 9242, 20 M Street SE., Suite 950, Washington, DC 20003. Comments on the EA and FONSI should be sent to Dean Gettinger, Field Office Manager, Northeastern States Field Office, 626 E. Wisconsin Avenue, Suite 200, Milwaukee, WI 53202–4617. Comments may also be emailed to *mglasson@blm.gov*. Copies of the EA are available at the following office locations: BLM Eastern States Office, 20 M Street SE., Suite 950, Washington, DC 20003; and, BLM Northeastern States Field Office, 626 E. Wisconsin Avenue, Suite 200, Milwaukee, WI 53202–4617. Both documents may also be accessed on the BLM Eastern States' Web site at: *http://www.blm.gov/es/st/en/prog/minerals/coal.html.*

FOR FURTHER INFORMATION CONTACT: Michael W. Glasson, Solid Minerals Program Lead, telephone: 202–912–7723; or email: *mglasson@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Mr. Glasson during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Mr. Glasson. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Buckingham Coal Company filed an LBA with the BLM in December of 2011, to lease Federal coal in Perry and Morgan Counties, Ohio. The U.S. Forest Service (FS) completed an EA and FONSI on March 11, 2014 and issued its consent to lease on March 11, 2014. The BLM anticipates issuing a Decision Record after the public meeting announced by this Notice and after having considered any comments received on the EA, FMV, and MER.

The lands included in the Buckingham Coal Company Federal Coal LBA OHES–57390 are located in Perry and Morgan Counties, Ohio, approximately 2–4 miles east of Corning, Ohio. The lands are described as follows:

Parcel #1, Tract X32,
Section 12, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 6.00 acres.

Parcel #2 Tract X76,
Section 24, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 10.00 acres.

Parcel #3 Tract X41,
Section 14, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 80.00 acres.

Parcel #4 Tract X37,
Section 13, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 109.25 acres.

Parcel #5 Tract X38,
Section 13 and Tract X53, Section 24, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 80.00 acres.

Parcel #6 Tract X35,
Section 18 and Tract X38, Section 19, T. 8 N., R. 13 W., Ohio River Survey Meridian, Ohio.
Containing 60.94 acres (A subsurface ownership difference will be resolved on this parcel prior to lease issuance).

Parcel #7 Tract X81,
Section 24, T. 12 N., R. 14 W., Ohio River Survey Meridian, Ohio.
Containing 86.25 acres.

Containing 432.44 acres.

The company plans to mine the Federal coal as an extension from its existing underground mine if the lease is obtained. The proposed mine would recover coal from the Middle Kittanning seam at the base of the Pennsylvanian aged Lower Freeport Sandstone. As required under 43 CFR 3425.4, the public is invited to the hearing to give public oral and/or written comments on the EA, the FMV, and MER of the Federal tract. Written comments must be received within 30 days following the date of the public hearing. The meeting is being advertised in the *Athens News, Athens Messenger* and the *Logan Daily* area newspapers.

The EA addresses the cultural, socioeconomic, environmental and cumulative impacts that would likely result from leasing these coal lands. Two alternatives are addressed in the EA:

Alternative 1 (Proposed Action) The tract would be leased, as applied for.

Alternative 2 (No Action) The application would be rejected or denied. The Federal coal would therefore be bypassed.

Proprietary data marked as confidential may be submitted to the BLM in response to the solicitation of public comments. Data so marked shall be treated in accordance with the laws and the regulations governing the confidentiality of such information. A copy of the comments submitted by the public on FMV and MER, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Eastern States Office, 20 M Street SE., Suite 950, Washington, DC 20003, 9th Floor, during regular business hours (9 a.m. to 4 p.m.), Monday through Friday. Written comments on the FMV and MER should address, but need not be limited to the following:

1. The quality and quantity of the coal resource;

2. The mining methods or methods which would achieve MER of the coal, including specifications of seams to be mined and the most desirable timing and rate of production;

3. Restrictions to mining that may affect coal recovery;

4. The price that the mined coal would bring when sold;

5. Costs, including mining and reclamation, of producing the coal and the time of production;

6. The percentage rate at which anticipated income streams should be discounted, either with inflation or in the absence of inflation, in which case the anticipated rate of inflation should be given;

7. Depreciation, depletion, amortization and other tax accounting factors;

8. The value of any surface estate where held privately;

9. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and

10. Any comparable sales data of similar coal lands and coal quantities.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6; 43 CFR 3425.4.

Dean Gettinger,

Northeastern States Field Office.

[FR Doc. 2015–11263 Filed 5–8–15; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L16100000.DP0000.LXSSH 0930000 15XL1109AF.HAG15–0133]

San Juan Islands National Monument Advisory Committee, Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) San Juan Islands National Monument Advisory Committee (MAC) will meet as indicated below.

DATES: The MAC will meet on three separate dates in the next two months. The meetings on May 28 and June 5 are scheduled for 8:30 a.m.–4:45 p.m. at the San Juan Island Grange, 152 N 1st Street, Friday Harbor, Washington 98250. The meeting on June 9 is scheduled for 9:30 a.m.–4:45 p.m. at Brickworks, 150 Nichols St., Friday Harbor, Washington 98250.

Thursday, May 28, 2015: Meeting discussions will include an update on outcomes of the scoping process in March 2015. The MAC will be guided through the planning process steps, with definitions of key steps, such as Issues Identification. The committee will then review the variety of resource comments as well as the list of preliminary planning issues developed by the BLM interdisciplinary team. The committee will provide recommendations on any modifications to this list that they may have. The planning issues are the questions (*e.g.,* how should the BLM manage recreation while protecting ecological, cultural, and historic values) that the BLM will explore answers to through the range of alternative management approaches developed for the draft plan.

Friday, June 5, 2015: This meeting will focus on the ecological values within the National Monument for which the BLM will be developing alternative management approaches through the planning process. BLM resource leads for wildlife, botany, and invasive species will be present to share the breadth of considerations and opportunities that will be considered in the generation of alternatives.

Tuesday, June 9, 2015: This meeting will focus on cultural and historic values within the National Monument for which the BLM will be developing alternative management approaches through the planning process. The BLM resource lead for cultural and heritage resources will be present to introduce the MAC to the requirements for considerations and analysis in the generation of alternatives.

FOR FURTHER INFORMATION CONTACT: Marcia deChadenèdes, San Juan Islands National Monument Manager, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261, (360) 468–3051, or *mdechade@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The twelve member San Juan Islands MAC was chartered to provide information and advice regarding the development of the San Juan Islands National Monument's RMP. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. All advisory committee meetings are open to the public. At each meeting, at 3:45 p.m., members of the public will have the opportunity to make comments to the MAC during a one-hour public comment period. Persons wishing to make comments during the public comment period should register in person with the BLM by 3 p.m. on that meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the MAC at San Juan Islands National Monument, Attn. MAC, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261. The BLM appreciates all comments.

Jeffery A. Rose,

Spokane District Manager.

[FR Doc. 2015–11299 Filed 5–8–15; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–017]

GOVERNMENT IN THE SUNSHINE ACT MEETING NOTICE USITC SE–15–017

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 21, 2015 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

Matters To Be Considered

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–456 and 731–TA–1151–1152 (Review) (Citric Acid and Certain Citrate Salts from Canada and China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on June 3, 2015.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: May 6, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–11386 Filed 5–7–15; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Clean Air Act

On May 1, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District

Court for the Western District of Michigan in the lawsuit entitled *United States* v. *Merit Energy Company,* Civil Action No. 1:15–cv–00455.

The Consent Decree addresses alleged violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.,* and its implementing regulations at an onshore natural gas processing plant in Kalkaska, Michigan that is owned and operated by Merit Energy Company (''Merit''). The United States alleges that Merit failed to comply with certain requirements governing the control of hazardous air pollutant emissions under Section 111 of the Clean Air Act, 42 U.S.C. 7411, and the implementing regulations at: (i) 40 CFR part 60, subpart KKK (Standards of Performance for Equipment Leaks of Volatile Organic Compounds From Onshore Natural Gas Processing Plants); (ii) 40 CFR part 60, subpart VV (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry); and (iii) 40 CFR part 60, Appendix A (Method-21 Determination of VOC Leaks)

The proposed Consent Decree would resolve the claims alleged in the United States' Complaint in exchange for the Defendant's commitment to implement appropriate injunctive relief and pay a civil penalty of $850,000. Among other things, the injunctive relief provisions of the Consent Decree would require Merit to implement an enhanced leak detection and repair program at its Kalkaska, Michigan natural gas processing plant.

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* v. *Merit Energy Company,* D.J. Ref. No. 90–5–2–1–10951. 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 $17.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–11331 Filed 5–8–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Annual Information Return/Report of Employee Benefit Plan

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Annual Information Return/Report of Employee Benefit Plan,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 10, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201504-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Annual Return/Report of Employee Benefit Plan information collection. The Annual Return/Report of Employee Benefit Plan, Form 5500, is the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. In addition to being an important disclosure document for plan participants and beneficiaries, Form 5500 is a compliance and research tool for the EBSA, Pension Benefit Guaranty Corporation, and Internal Revenue Service. It is also a source of information for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. Employee Retirement Income Security Act of 1974 section 103 authorizes this information collection. *See* 29 U.S.C. 1023

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0110.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on

May 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 10, 2014 (79 FR 66741).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0110. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Annual Return/Report of Employee Benefit Plan.

OMB Control Number: 1210–0110.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 827,575.

Total Estimated Number of Responses: 827,575.

Total Estimated Annual Time Burden: 581,765 hours.

Total Estimated Annual Other Costs Burden: $229,389,600.

Dated: May 5, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–11301 Filed 5–8–15; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Extension of Information Collection Requests

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as 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 collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: All comments must be received on or before July 10, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0006.
- *Regular Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939.
- *Hand Delivery:* MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed extension of the information collection requests contained in this notice. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This information collection request is available on *http://www.msha.gov/regs/fedreg/informationcollection/informationcollection.asp.* The information collection request will be available on MSHA's Web site and on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

II. Current Actions

This request for collection of information contains provisions for the proposed extension of the information collection requests contained in this notice. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0040.

Affected Public: Business or other for-profit.

Number of Respondents: 13,683.

Frequency: On occasion.

Number of Responses: 104,919.

Annual Burden Hours: 9,539 hours.

Annual Respondent or Recordkeeper Cost: $576.

MSHA Forms: MSHA Form 7000–52, Contractor Identification (ID) Request.

Description. Independent contractors perform services or construction at a mine. They may be engaged in virtually every type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns. Independent contractors vary in size, the type of work performed, and the time spent working at mine sites. Some contractors work exclusively at mining operations, others may work a single contract at a mine and never return to MSHA jurisdiction. MSHA uses the contractor information in this information collection request during inspections to determine the responsibility for compliance with safety and health standards.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0073.

Affected Public: Business or other for-profit.

Number of Respondents: 1,631.

Frequency: On occasion.

Number of Responses: 711.

Annual Burden Hours: 13,872 hours.

Annual Respondent or Recordkeeper Cost: $17,573,769.

Description. The information collection addressed by this notice is intended to protect miners by assuring that up-to-date, accurate mine maps contain the information needed to clarify the best alternatives for action during an emergency operation. Coal mine operators routinely use maps to create safe and effective development plans.

Mine maps are schematic depictions of critical mine infrastructure, such as water, power, transportation, ventilation, and communication systems. Using accurate, up-to-date maps during a disaster, mine emergency personnel can locate refuges for miners and identify sites of explosion potential; they can know where stationary equipment was placed, where ground was secured, and where they can best begin a rescue operation. During a disaster, maps can be crucial to the safety of the emergency personnel who must enter a mine to begin a search for survivors.

Mine maps may describe the current status of an operating mine or provide crucial information about a long-closed mine that is being reopened.

Title 30 CFR 75.1200 requires each underground coal mine operator to have an accurate and up-to-date map of such mine drawn to scale and stored in a fireproof repository in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazards. Sections 75.1200–1, 75.1201, 75.1202, 75.1202–1, and 75.1203 specify the information which must be shown on the map. The maps must be certified by a registered engineer or surveyor; kept continuously up-to-date by temporary notations and revised and supplemented to include the temporary notations at intervals not more than 6 months; and made available for inspection by a representative of the Secretary, State coal mine inspectors, miners and their representatives, operators of adjacent coal mines, and persons owning, leasing, or residing on surface areas of such mines or areas adjacent to such mines. These maps are essential to the planning and safe operation of the mine. In addition, these maps provide a graphic presentation of the locations of working sections and the locations of fixed surface and underground mine facilities and equipment, escapeway routes, coal haulage and man and materials haulage entries and other information essential to mine rescue or mine fire fighting activities in the event of mine fire, explosion or inundations of gas or water. The information is essential to the safe operation of adjacent mines and mines approaching the worked out areas of active or abandoned mines. Section 75.372 requires underground mine operators to submit three copies of an up-to-date mine map to the District Manager at intervals not exceeding 12 months during the operating life of the mine.

Title 30 CFR 75.1204 and 75.1204–1 require that whenever an underground coal mine operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than 90 days, the operator shall file with MSHA a copy of the mine map revised and supplemented to the date of closure. Maps are retained in a repository and are made available to mine operators of adjacent properties. The maps are necessary to provide an accurate record of underground areas that have been mined to help prevent active mine operators from mining into abandoned areas that may contain water or harmful gases.

Title 30 CFR 77.1200, 77.1201 and 77.1202 require surface coal mine operators to maintain an accurate and up-to-date map of the mine and specifies the information to be shown on the map, the acceptable range of map scales, that the map be certified by a registered engineer or surveyor, that the map be available for inspection by the Secretary or his authorized representative. These maps are essential for the safe operation of the mine and provide essential information to operators of adjacent surface and underground mines. Properly prepared and effectively utilized surface mine maps can prevent outbursts of water impounded in underground mine workings and/or inundations of underground mines by surface impounded water or water and or gases impounded in surface auger mining worked out areas.

Title 30 CFR 75.373 and 75.1721 require that after a mine is abandoned or declared inactive and before it is reopened, mine operations shall not begin until MSHA has been notified and has completed an inspection. Section 75.1721 specifies that once the mine operator notifies the MSHA District Manager on the intent to reopen a mine all preliminary plans must be submitted in writing prior to development of the coalbed unless or until all preliminary plans are approved.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0119.

Affected Public: Business or other for-profit.

Number of Respondents: 151.

Frequency: On occasion.

Number of Responses: 177,659.

Annual Burden Hours: 14,422 hours.

Annual Respondent or Recordkeeper Cost: $322,624.

Description. MSHA requires mine operators to provide important safety and health protections to underground coal miners who work on and around diesel-powered equipment. The engines powering diesel equipment are potential contributors to fires and explosion hazards in the confined environment of an underground coal mine where combustible coal dust and explosive methane gas are present. Diesel equipment operating in underground coal mines also can pose serious health risks to miners from exposure to diesel exhaust emissions, including diesel particulates, oxides of nitrogen, and carbon monoxide. Diesel exhaust is a lung carcinogen in animals.

Information collection requirements are found in: section 75.1901(a) Diesel fuel requirements; section 75.1911(j) Fire suppression systems for diesel-

powered equipment and fuel transportation units; section 75.1912(i) Fire suppression systems for permanent underground diesel fuel storage facilities; sections 75.1914(f)(1), (f)(2), (g)(5), (h)(1), and (h)(2) Maintenance of diesel-powered equipment; sections 75.1915(b)(5), (c)(1), and (c)(2) Training and qualification of persons working on diesel-powered equipment.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0120.

Affected Public: Business or other for-profit.

Number of Respondents: 12,493.

Frequency: On occasion.

Number of Responses: 179,186.

Annual Burden Hours: 13,295 hours.

Annual Respondent or Recordkeeper Cost: $27,861.

Description. Noise is a harmful physical agent and one of the most pervasive health hazards in mining. Repeated exposure to high levels of sound over time causes occupational noise-induced hearing loss (NIHL), a serious, often profound physical impairment in mining, with far-reaching psychological and social effects. NIHL can be distinguished from aging and other factors that can contribute to hearing loss and it can be prevented. According to the National Institute for Occupational Safety and Health (NIOSH), NIHL is among the ''top ten'' leading occupational illnesses and injuries.

For many years, NIHL was regarded as an inevitable consequence of working in a mine. Mining, an intensely mechanized industry, relies on drills, crushers, compressors, conveyors, trucks, loaders, and other heavy-duty equipment for the excavation, haulage, and processing of material. This equipment creates high sound levels, exposing machine operators as well as miners working nearby. MSHA, Occupational Safety and Health Administration, the military, and other organizations around the world have established and enforced standards to reduce the loss of hearing. Quieter equipment, isolation of workers from noise sources, and limiting the time workers are exposed to noise are among the many well-accepted methods that will prevent the costly incidence of NIHL.

Records of miner exposures to noise are necessary so that mine operators and MSHA can evaluate the need for and effectiveness of engineering controls, administrative controls, and personal protective equipment to protect miners from harmful levels of noise that can result in hearing loss. However, the Agency believes that extensive records for this purpose are not needed. These requirements are a performance-oriented approach to monitoring. Records of miner hearing examinations enable mine operators and MSHA to ensure that the controls are effective in preventing NIHL for individual miners. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0131.

Affected Public: Business or other for-profit.

Number of Respondents: 11,657.

Frequency: On occasion.

Number of Responses: 1,157,241.

Annual Burden Hours: 155,240 hours.

Annual Respondent or Recordkeeper Cost: $356,004.

Description. Training informs miners of safety and health hazards inherent in the workplace and enables them to identify and avoid such hazards. Training becomes even more important in light of certain conditions that can exist when production demands increase, such as: an influx of new and less experienced miners and mine operators; longer work hours to meet production demands; and increased demand for contractors who may be less familiar with the dangers on mine property.

MSHA's health and safety training requirements ensure that all miners receive the required training, which would result in a decrease in accidents, injuries, and fatalities. The information obtained from mine operators is used by MSHA during inspections to determine compliance with the requirements concerning the training and retraining of miners engaged in shell dredging, or employed at sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mines.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 5, 2015.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–11293 Filed 5–8–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning its proposal to extend OMB approval of the information collection: Statement of Recovery (SOR) Forms (CA–1108 and CA–1122). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before July 10, 2015.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone/fax (202) 354–9647, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. *Background:* A Federal employee who sustains a work-related injury is entitled to receive compensation under the Federal Employees' Compensation Act (FECA). If that injury is caused under circumstances that create a legal liability in a third party to pay damages, the FECA authorizes the Secretary of Labor to require the employee to assign his or her right of action to the United States or to prosecute the action in his or her own name. *See* 5 U.S.C. 8131.

When the employee receives a payment for his or her damages, whether from a final court judgment on or a settlement of the action, section

8132 of the FECA (5 U.S.C. 8132) provides that the employee ''shall refund to the United States that amount of compensation paid by the United States. . . .'' To enforce the United States' statutory right of reimbursement, the Office of Workers' Compensation Programs (OWCP) has promulgated regulations. The regulations require a FECA beneficiary to report these types of payments (20 CFR 10.710) and submit the detailed information necessary to calculate the amount of the refund and surplus, if any, according to the formula in the statute (20 CFR 10.707(e)).

The information collected by Form CA–1108 and Form CA–1122 from the FECA beneficiary includes this information and is necessary to calculate the amount of the refund and surplus owed to the United States from the FECA beneficiary's settlement or judgment, as required in the statute and the regulations. This information collection is currently approved for use through August 31, 2015.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks the approval for the extension of this currently approved information collection in order to exercise its responsibility to enforce the United States' right to this refund. The information collected with Form CA–1108 and Form CA–1122 is used by SOL personnel to determine the amount to be reimbursed to the United States out of the proceeds of an action asserted by an injured Federal employee against a liable third party for a compensable injury.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Statement of Recovery Forms.

OMB Number: 1240–0001.

Agency Number: CA–1108 and CA–1122.

Affected Public: Business or other for-profit, Individuals or households.

Form	Time to complete (minutes)	Frequency of response	Number of respondents	Number of responses	Hours burden
CA–1108 Business Respondent	30	1	832	832	416
CA–1122 Individual Respondent	15	1	10	10	3
Totals	NA	NA	842	842	419

Total Respondents: 842.

Total Annual Responses: 842.

Average Time per Response: 15–30 minutes.

Estimated Total Burden Hours: 419.

Frequency: As needed.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $219.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 5, 2015.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2015–11315 Filed 5–8–15; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL CAPITAL PLANNING COMMISSION

Public Comment on the Draft Federal Urban Design Element of the Comprehensive Plan for the National Capital: Federal Elements

AGENCY: National Capital Planning Commission.

ACTION: Notice of 60-day public comment period.

SUMMARY: The National Capital Planning Commission (NCPC), the Planning Commission for the Federal Government within the National Capital Region, intends to release for public comment a draft new Federal Urban Design Element of the Comprehensive Plan for the National Capital: Federal Elements. The Comprehensive Plan for the National Capital: Federal Elements addresses matters relating to Federal Properties and Federal Interests in the National Capital Region, and provides a decision-making framework for actions the NCPC takes on specific plans and proposals submitted by Federal government agencies for the NCPC review required by law. The new Federal Urban Design Element provides policies that will guide the design and management of federal buildings and properties so as to enhance their adjacent public realm. It will also provide a framework for federal actions related to enhancing the overall character of the District of Columbia and the National Capital Region. All interested parties are invited to submit written comment. The draft Federal Urban Design Element will be available online at *http://www.ncpc.gov/urbandesign* not later than May 8, 2015. Printed copies are available upon request from the contact person noted below.

DATES: *Dates and Time:* The public comment period closes on July 10, 2015. A public meeting to discuss the draft revisions to the new Federal Urban Design Element will be held on Monday June 1, 2015 from 6:00 p.m. to 8:00 p.m.

ADDRESSES: Mail written comments or hand deliver comments on the draft revisions to Comprehensive Plan Public Comment, National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004. The public meeting will be held at AIA|DC 421 7th Street NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Dereth Bush at (202) 482–7233 or *urbandesign@ncpc.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Addresses

You may submit comments electronically at the public comment portal at *http://www.ncpc.gov/urbandesign/comment.html.*

Authority: (40 U.S.C. 8721(e)(2)).

Dated: May 6, 2015.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2015–11292 Filed 5–8–15; 8:45 am]

BILLING CODE 7520–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

DATES: Interested persons are invited to send comments regarding the burden or any other aspect of this collection of information requirements by July 10, 2015.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

Comments: Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the Science, Technology, Engineering, and Mathematics Talent Expansion Program (STEP)

OMB Approval Number: 3145—NEW.

Expiration Date: Not applicable.

Overview of this information collection: The National Science Foundation (NSF) is supporting an evaluation of the Science, Technology, Engineering, and Mathematics Talent Expansion Program (STEP). The primary objectives of the evaluation, stated generally, are to (a) analyze STEP implementation and outcome data from the participating institutions of higher education (IHEs), (b) compare these data to baseline data from the IHEs and matched comparison IHEs, and (c) produce a clear report of the findings to inform future programmatic activities focused on degree attainment in STEM. The evaluation will include surveys of principal investigators; extant data retrieval from Integrated Postsecondary Education Data System (IPEDS), grantee proposals and annual reports, and STEP monitoring system; and extant outcome data collection from grantee and comparison IHEs that includes aggregate data for key indicators over time (from 2000 to 2015). These key indicators include (a) number of students who are science, technology, engineering and mathematics (STEM) majors; (b) STEM retention rates; (c) persistence to a STEM degree; (d) number of STEM major transfers from 2-year associate programs into 4-year baccalaureate programs; (e) associate and baccalaureate degree attainment among STEM majors; and (f) enrollment in STEM courses. Additionally, in a subset of 10 IHEs, de-identified student level outcomes for participating students and comparison student counterparts will be collected (see Graduate 10K+ grants below).

NSF granted STEP awards to a geographically diverse set of two- and four-year IHEs, with the first round of grant awards beginning in the 2002–2003 school year and new awards granted each year through the 2013–2014 school year. Over the course of the program, STEP awarded a total of 255 grants (129 of which are currently active). STEP supported 3 types of grants:

- Type 1—Type 1 grants supported the implementation of best practices in recruitment, retention, and degree attainment that would lead to an increase in the number of students obtaining associate or baccalaureate degrees in STEM or completing credits to transfer from associate to baccalaureate programs in a STEM discipline. Specific strategies implemented were based on an analysis of the needs of the undergraduate institution of higher education (IHE).
- Type 2—Type 2 grants supported educational research projects that helped identify best practices and further understanding of the factors influencing STEM recruitment, retention, and degree attainment.
- Graduate 10K+—In support of President Obama's 2012 initiative calling for ''one million STEM graduates in ten years,'' a public-private collaboration among NSF, Intel, and the GE Foundation, with a generous personal donation from Mark Gallogly, established the Graduate 10K+ special funding focus in FY2013. Graduate 10K+ projects strived to improve first and second year retention rates in engineering and computer science, especially among women and other groups of students who are underrepresented in the attainment of degrees in those disciplines.

NSF is committed to providing stakeholders with information regarding the expenditures of taxpayer funds. The evaluation of STEP will assess the overall effect of STEP funding across STEP-funded IHEs; explore the types and combinations of STEP strategies, practices, and characteristics that are most effective at achieving the desired STEP outcomes; examine differences in outcomes across targeted disciplines; assess the effects of Graduate 10K+ funding on first- and second-year retention rates in engineering and computer science; and investigate the broad influence of STEP Type 2 projects to the base of quality, practical research in STEM education and in preparing new researchers to enter the field.

If NSF cannot collect information from STEP participants and comparison IHEs, NSF will have no other means to consistently assess the program outcomes and identify strategies, practices, and characteristics that are most effective at achieving those desired outcomes.

Background

The evaluation will involve data from web surveys and extant sources. OMB approval is being sought for the new data that will be collected for the study. Primary data sources will include web surveys of STEP Principal Investigators (PIs) and aggregate level outcome data provided by PIs at grantee IHEs and Institutional Research staff at comparison IHEs.

Respondents: Individuals (Principal Investigators, Institutional Research staff).

Number of Type 1 PI Survey Respondents: 325.

Number of Type 2 PI Survey Respondents: 17.

Number of Data Request Respondents: 1,031.

Average Time per Response (Type 1 PI Survey): 15 minutes.

Average Time per Response (Type 2 PI Survey): 20 minutes.

Average Time per Data Request (Principal Investigators. Institutional Research Staff): 120 minutes.

Burden on the Public: 2,149 total hours.

Dated: May 5, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–11279 Filed 5–8–15; 8:45 am]

BILLING CODE 7555–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Audit Committee Meeting; Sunshine Act

TIME AND DATE: 2:00 p.m., Tuesday, May 19, 2015.

PLACE: NeighborWorks America—Gramlich Boardroom 999 North Capitol Street NE., Washington, DC 20002.

STATUS: Open (with the exception of Executive Sessions).

CONTACT PERSON: Jeffrey Bryson, General Counsel/Secretary (202) 760–4101; *jbryson@nw.org.*

AGENDA:

I. CALL TO ORDER
II. Executive Session with the Chief Audit Executive
III. Executive Session: Pending Litigation
IV. Executive Session: OHTS Watch List Review
V. FY 2016 Risk Assessment & Draft Internal Audit Plan
VI. Internal Audit Reports with Management's Response
VII. Internal Audit Status Reports
VIII. Compliance Update
IX. Other External Audit Reports
X. Adjournment

Jeffrey T. Bryson,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2015–11426 Filed 5–7–15; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meeting Notice

DATE: May 11, 18, 25, June 1, 8, 15, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 11, 2015

There are no meetings scheduled for the week of May 11, 2015.

Week of May 18, 2015—Tentative

Tuesday, May 19, 2015

9:00 a.m. Briefing on Cumulative Effects of Regulation and Risk Prioritization Initiatives (Public Meeting) (Contact: Steve Ruffin, 301–415–1985).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, May 21, 2015

9:00 a.m. Briefing on the Results of the Agency Action Review Meeting (Public Meeting) (Contact: Nathan Sanfilippo, 301–415–8744).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of May 25, 2015—Tentative

There are no meetings scheduled for the week of May 25, 2015.

Week of June 1, 2015—Tentative

There are no meetings scheduled for the week of June 1, 2015.

Week of June 8, 2015—Tentative

Tuesday, June 9, 2015

9:30 a.m. Briefing on NRC Insider Threat Program (Closed–Ex. 1 & 2).

Thursday, June 11, 2015

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (Public Meeting) (Contact: Edwin Hackett, 301–415–7360).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of June 15, 2015

There are no meetings scheduled for the week of June 15, 2015.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: May 6, 2015.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–11362 Filed 5–7–15; 11:15 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act of 1995, of its collection of information for annual financial and actuarial reporting under 29 CFR part 4010 (OMB control number 1212–0049, expires June 30, 2015). This notice informs the public of PBGC's

request and solicits public comment on the collection of information.

DATES: Comments must be submitted by June 10, 2015.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKE@omb.eop.gov* or by fax to (202) 395–6974.

A copy of the request (including the collection of information) will be posted at *http://www.pbgc.gov/prac/laws-and-regulations/information-collections-under-omb-review.html*. It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, at the above address, visiting the Disclosure Division, faxing a request to 202–326–4042, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The Disclosure Division will email, fax, or mail the request to you, at your request.

FOR FURTHER INFORMATION CONTACT: Grace Kraemer, Attorney, or Catherine B. Klion, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4010 of the Employee Retirement Income Security Act of 1974 (ERISA) requires each member of a controlled group to submit financial and actuarial information to PBGC under certain circumstances. PBGC's regulation on Annual Financial and Actuarial Information (29 CFR part 4010) specifies the items of identifying, financial, and actuarial information that filers must submit. PBGC reviews the information that is filed and enters it into an electronic database for more detailed analysis. Computer-assisted analysis of this information helps PBGC to anticipate possible major demands on the pension insurance system and to focus PBGC resources on situations that pose the greatest risk to the system. Because other sources of information are not as current as the 4010 information and do not reflect a plan's termination liability, 4010 filings play a major role in PBGC's ability to protect participant and premium-payer interests.

ERISA section 4010 and PBGC's 4010 regulation specify that each controlled group member must provide PBGC with certain financial information, including audited (if available) or (if not) unaudited financial statements. They also specify that the controlled group must provide PBGC with certain actuarial information necessary to determine the liabilities and assets for all PBGC-covered plans. All non-public information submitted is protected from disclosure. Reporting is accomplished through PBGC's secure e-4010 web-based application.

OMB has approved the 4010 collection of information under control number 1212–0049 through June 30, 2015. PBGC is requesting that OMB extend its approval for another three years. 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.

PBGC estimates that approximately 300 controlled groups will be subject to 4010 reporting requirements. PBGC further estimates that the total annual burden of this collection of information will be 2,620 hours and $5,088,000.

PBGC is soliciting public comments to—

- 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 methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC, this 6th day of May, 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–11347 Filed 5–8–15; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–62; Order No. 2470]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition to Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 13, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On May 5, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–62 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than May 13, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 5, 2015 (Notice).

1. The Commission establishes Docket No. CP2015–62 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than May 13, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–11330 Filed 5–8–15; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74874; File No. SR–Phlx–2015–37]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules To Describe How All-or-None Orders Are Handled by Its New Options Floor Broker Management System

May 5, 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 22, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange rules to describe how All-or-None (''AON'') orders are handled by its new Options Floor Broker Management System (''FBMS'').

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

* * * * *

A–9 All-or-None Option Orders

An all-or-none option order is a limit order which is to be executed in its entirety, or not at all. Unlike a fill-or-kill order, an all-or-none order is not cancelled if it is not executed as soon as it is represented in the trading crowd. An all-or-none order has no standing *respecting executions* in the crowd except with respect to other all-or-none orders.

When represented in the crowd, [A]*a*ll-or-none orders are not included as part of the bid or offer. [However, an all-or-none order entrusted to a Specialist should be disclosed to the trading crowd if such order falls within or upon the bid or offer for the particular option series.

For example, if the market in XYZ Oct 30 calls is 4–4.25, 10×15, and there is an all-or-none order on the Specialist's book to sell 10 XYZ Oct 30 calls at 4.25 all-or-none, the Specialist, in response to a request for the market in XYZ Oct 30 calls, should respond:

''The market is 4–4.25, 10×15, 10 (to sell) at 4.25 all-or-none.''

Accordingly, under this policy, all-or-none option orders should be announced to the trading crowd as part of the quoted market, but not as part of the bid or offer.]

When entered electronically pursuant to Rule 1080 or into Options Floor Broker Management System pursuant to Rule 1063, an all-or-none order has standing and is eligible for execution in time priority with all other customer orders and all-or-none professional orders (as specified in Rule 1000(b)(14)) at that price if the all-or-none contingency can be met.

FINE SCHEDULE

Fine not applicable

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Today, the Exchange is operating two versions of FBMS as part of an implementation period for the new FBMS. The old FBMS enabled Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders executed manually (verbally) in open outcry on the Exchange. It also established an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can use old FBMS to submit orders to the PHLX XL II System (''System'') pursuant to Rule 1063, rather than executing the orders in the trading crowd.

With the new FBMS, all options transactions on the Exchange involving at least one Floor Broker can continue to be represented in open outcry in the trading crowd but are now required to be executed by and through the new FBMS. In connection with order execution, the Exchange allows FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. FBMS also provides Floor Brokers with an enhanced functionality called the complex calculator that calculates and displays a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis. The Exchange deployed the new FBMS in March 2014. Despite the initial intent to phase out the old FBMS after an implementation period involving the old and new FBMS operating concurrently, the Exchange has determined to operate the old FBMS until November 3, 2015 and is planning to implement a new, third FBMS, the details of which will be filed as a proposed rule change.[3] In the event that the Floor Broker is utilizing the new FBMS and the new FBMS malfunctions or is otherwise not available after a Floor Broker has entered an order, the Floor Broker can re-enter that order into the old FBMS.

Proposal

The purpose of the proposal is to address the way AON orders on the book are handled electronically by the new FBMS.[4] In its filing for approval of the new FBMS, the Exchange addressed AON orders merely by referring to Advice A–9, which provides, in pertinent part, that an AON option order is a limit order which is to be executed in its entirety, or not at all.[5] Advice A–9 further provides that an AON order has no standing in the crowd except with respect to other AON orders. Accordingly, when a Floor Broker using

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 73586 (November 13, 2014), 79 FR 68931 (November 19, 2014) (SR–Phlx–2014–71).

[4] Only customers and professionals can submit AON orders. *See* Rules 1000(b)(14) and Rule 1080(b).

[5] *See also* Rule 1066(c)(4).

the old FBMS executes an order in the trading crowd today where there is an AON order executable against the Floor Broker's order on the contra-side, the Floor Broker can skip that AON order and trade with another quote or order at that price, because the AON order has no standing. This would continue to be the case for verbal executions, which occur when the old FBMS is used, when the new FBMS malfunctions [6] and where there is no Floor Broker involved.[7] The Exchange is not proposing to change this, other than to make a slight language change to clarify that the execution is occurring in the trading crowd.

Although this is how AON orders are treated on the trading floor today when executed manually in the trading crowd, AON orders are treated differently when the new FBMS is used because the System performs the execution. Specifically, in the new FBMS, AON orders that can trade against any eligible interest, not just other AON orders, and they are not skipped. When a Floor Broker seeks to execute an order using the new FBMS where there is an AON order at a price equal to or better than the Floor Broker's order on the contra-side, the Floor Broker must enter his order into the new FBMS and execute against the full size of the AON order electronically. If the Floor Broker does not fulfill the full size of the AON order, the Floor Broker's order will be returned with no execution occurring.

This is the same way that AON orders are treated by the System; they are subject to the normal price and time priority principles of Rule 1014, except that the AON contingency must be met for the AON order to trade. An AON order with time priority will trade in time priority before another customer order if its size contingency can be met. If the size contingency order cannot be met, the AON order will be skipped and a customer order behind it in time priority may execute. Because the new FBMS executes orders electronically and generally provides more electronic functionality, the Exchange believes it is appropriate to address AON orders executed against orders submitted through the new FBMS in the same way.

Accordingly, Advice A–9 is proposed to be amended to expressly state that how AON orders are handled when executed manually (verbally) as well as when executed electronically. With respect to electronic AON orders, the Exchange proposes to expressly state that an AON order has standing and is eligible for execution in time priority with all other customer orders and AON professional orders (as specified in Rule 1000(b)(14)) at that price if the AON contingency can be met. The Exchange is not changing what types of orders a professional can submit nor the priority of those orders. Rule 1000(b)(14) will continue to state that the term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). It will also continue to state that a professional will be treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g)(except with respect to AON orders, which will be treated like customer orders, except that orders submitted pursuant to Rule 1080(n) for the beneficial account(s) of professionals with an AON designation will be treated in the same manner as off-floor broker-dealer orders), 1033(e), 1064.02 (except professional orders will be considered customer orders subject to facilitation), 1080(n) and 1080.08 as well as Options Floor Procedure Advices B–6, B–11 and F–5.

The Exchange also proposes to delete the example at the end of Advice A–9. It is obsolete for several reasons; it refers to the ''Specialist's book,'' which is now generally considered the Exchange's book, the limit order book or just the book; and announcing AON orders on the book to the crowd does not occur where there is a remote specialist. For similar reasons, the Exchange proposes to delete reference to an AON order being ''entrusted to a Specialist.'' This process is no longer performed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(5) of the Act [9] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, by specifically providing how an AON order executes against orders submitted through the new FBMS and by improving the treatment of such AON orders as opposed to AON orders handled manually. Specifically, the proposal results in improving the treatment of electronic AON orders by increasing their interaction with other orders on the Exchange, because AON orders are electronically executed against contra-side orders entered into the new FBMS. More specifically, such orders have standing and time priority, as explained above. The Exchange is not changing the priority of afforded to electronic AON orders, but rather is codifying such treatment in its rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This treatment of AON orders should help the Exchange compete with other floor-based exchanges for AON orders. More importantly, the proposal should result in more interaction between AON orders and all other orders, as explained above, thereby promoting a more competitive marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[12] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[13] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission notes that the proposal is designed to provide Exchange members with more specificity regarding how the Exchange handles AON orders in the

[6] Rule 1063(e)(ii).

[7] Rule 1000(f)(ii).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *Id.*

new FBMS system. The Commission also notes that the Exchange represents that the proposal does not affect the priority of electronic AON orders. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[14]

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.[15] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2015–37, and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8011–01–P

[14] 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).

[15] 15 U.S.C. 78s(b)(3)(C).

[16] *Id.*

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74870; File No. SR–NYSE–2015–20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE OpenBook To Add a Late Fee in Connection With Failure To Submit the Non-Display Use Declaration

May 5, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 24, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE OpenBook to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE OpenBook, as set forth on the NYSE Proprietary Market Data Fee Schedule (''Fee Schedule''), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for NYSE OpenBook in April 2013 and amended those fees in September 2014.[4] The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data.[5] In connection with the fee changes in the 2014 Non-Display

[4] *See* Securities Exchange Act Release Nos. 69278 (April 2, 2013), 78 FR 20973 (April 8, 2013) (SR–2013–25 [sic]) (''2013 Non-Display Filing'') and 72923 (Aug. 26, 2014), 79 FR 52079 (Sept. 2, 2014) (SR–NYSE–2014–43) (''2014 Non-Display Filing'').

[5] The non-display fee structure established in the 2013 Non-Display Filing replaced a monthly reporting obligation with respect to non-display devices with the requirement to submit the non-display use declaration. The Exchange also notes that if a data recipient only subscribes to products for which there are no non-display usage fees, *e.g.,* NYSE Realtime Reference Prices, then no declaration is required.

Filing, the Exchange required data recipients that receive real-time NYSE market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.[6] The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient's use of real-time NYSE market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient's data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE OpenBook, the Exchange needs to have current and accurate information about the use of NYSE OpenBook. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of $1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE OpenBook that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE OpenBook data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has completed and submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration.[7] A Non-Display Use Declaration that is clearly incomplete would not be considered to have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE OpenBook to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above, and to change the numbering for the existing endnotes as needed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE OpenBook, the Exchange needs to have current and accurate information about the use of NYSE OpenBook. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE OpenBook feed.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[10] The CTA imposes a monthly fee of $2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

[6] The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

[7] The Exchange will be proposing to establish the Non-Display Declaration Late Fee with respect to each Market Data product on the Fee Schedule that includes Non-Display Fees.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4), (5).

[10] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–20 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–NYSE–2015–20. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSE–2015–20 and should be submitted on or before June 1, 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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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74877; File No. SR–NYSEARCA–2015–37]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca Options Market Data To Add a Late Fee in Connection With Failure To Submit the Non-Display Use Declaration

May 5, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 27, 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, 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE Arca Options market data to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Arca Options market data, as set forth on the NYSE Arca Options Proprietary Market Data Fee Schedule (''Fee Schedule''), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for ArcaBook for Arca Options, which consists of ArcaBook for Arca Options—Trades, ArcaBook for Arca Options—Top of Book, ArcaBook for Arca Options—Depth of Book, ArcaBook for Arca Options—Complex, ArcaBook for Arca Options—Series Status, and ArcaBook for Arca Options—Order Imbalance, in May 2013 and amended those fees in September 2014.[4] In

[4] *See* Securities Exchange Act Release Nos. 69554 (May 10, 2013), 78 FR 28917 (May 16, 2013) (SR–NYSEArca–2013–47) (''2013 Non-Display Filing'')

November 2014, the Exchange established the current fees, including non-display use fees, for ArcaBook for Arca Options—Complex on a standalone basis.[5] The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE Arca Options market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data. In connection with the fee changes in the 2014 Non-Display Filing, the Exchange required data recipients that receive real-time NYSE Arca Options market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.[6] The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient's use of real-time NYSE Arca Options market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient's data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE Arca Options market data, the Exchange needs to have current and accurate information about the use of NYSE Arca Options market data. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of $1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE ArcaBook for Arca Options or NYSE ArcaBook for Arca Options—Complex that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE Arca Options market data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has completed and submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration. A Non-Display Use Declaration that is clearly incomplete would not be considered to have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE Arca Options market data to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE Arca Options market data, the Exchange needs to have current and accurate information about the use of NYSE Arca Options market data. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE Arca Options market data feeds.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[9] The CTA imposes a monthly fee of $2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce

and 73010 (Sept. 5, 2014), 79 FR 54307 (Sept. 11, 2014) (SR–NYSEArca–2014–94) (''2014 Non-Display Filing'').

[5] *See* Securities Exchange Act Release No. 73588 (Nov. 13, 2014), 79 FR 68922 (Nov. 19, 2014) (SR–NYSEArca–2014–129).

[6] The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

[9] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2015–37 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–2015–37. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2015–37 and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–11276 Filed 5–8–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

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 Equity Market Structure Advisory Committee will hold a public meeting on Wednesday, May 13, 2015, in the Multipurpose Room, LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC.

The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will be open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On April 23, 2015, the Commission published notice of the Committee meeting (Release No. 34–74793), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting will focus on Rule 611 of SEC Regulation NMS.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 6, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–11365 Filed 5–7–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74876; File No. SR–BOX–2015–06]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change To Establish a Pilot Program, as Modified by Amendment No. 1, To List and Trade Options Settling to the RealVol™ SPY Index

May 5, 2015.

I. Introduction

On January 21, 2015, the BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade P.M.-settled options settling to the RealVol™ SPY Index (''Index''). The proposed rule change was published for comment in the **Federal Register** on February 5,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2015.[3] On March 18, 2015, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On April 9, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[6] The Commission received one comment letter on the proposed rule change.[7] This Order grants approval of the proposed rule change, as modified by Amendment No. 1, on an accelerated basis for a twelve-month pilot period.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade, on a pilot basis, P.M.-settled, cash-settled, European-style options settling to the Index (proposed symbol VOLS[8]), for a pilot period of twelve months (''Pilot Program''). The Index measures the daily realized volatility[9] of the SPDR S&P 500 Exchange-Traded Fund (''SPY''),[10] based on a 21-trading day rolling realized volatility of the daily closing price of SPY.

The Index is calculated using a methodology developed by The VolX Group Corporation (''VolX''),[11] and will be calculated and maintained by a third party calculation agent acting on behalf of VolX. The Index will be updated on each trading day after the close of trading of SPY.[12] Although the Index is based only on daily closing values of SPY, a real-time version of the Index that is based on the current SPY price will be calculated during the trading day and disseminated at least every 15 seconds during the trading day to market data vendors. This real-time version will provide an estimate of the Index at the close.[13] The Exchange states that values of the Index also will be disseminated to market information vendors such as Bloomberg and Thomson Reuters. In the event the Index ceases to be maintained or calculated, the Exchange will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

The Exchange proposes that its standard trading hours for index options (9:30 a.m. to 4:15 p.m., Eastern time) will apply to VOLS. Standard VOLS will expire on the third Friday of each month. Trading in expiring VOLS will normally cease at 4:15 p.m. (Eastern time) on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration. The exercise and settlement value will be calculated based on the Index value at the close of the last business day of trading, which is ultimately based on the closing price of SPY on the last business day of trading, for its final input value. The exercise-settlement amount is equal to the difference between the settlement value and the exercise price of the option, multiplied by $100. Exercise will result in the delivery of cash on the business day following expiration.

The Exchange proposes to adopt minimum trading increments for VOLS to be $0.05 for series trading below $3, and $0.10 for series trading at or above $3. The Exchange also proposes to set the minimum strike price interval at $0.50 strike price (or greater) intervals for VOLS where the strike price is less than $75; $1 strike price (or greater) intervals where the strike price is $200 or less; and $5 strike price (or greater) intervals where the strike price is greater than $200.

Amendment No. 1 corrects an inaccurate statement in the Notice regarding the exercise price range limitations for new series of index options.[14] Under the Exchange's rules, when new series of index options with a new expiration date are opened for trading, or when additional series of index options in an existing expiration date are opened for trading, as the current value of the underlying index moves substantially from the exercise prices of series already opened, the exercise prices of such new or additional series shall be reasonably related to the current value of the underlying index at the time such series are first opened for trading.[15] The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within 30% of the current index value, as defined in BOX Rule 6090(c)(4).[16] In the Notice, the Exchange stated that it proposed to eliminate, for VOLS, the range limitation in BOX Rule 6090(c)(3) requiring the exercise prices of new or additional series of index options to be reasonably related to the current value of the underlying index at the time such series are first opened for trading. The Notice erroneously stated that the Exchange's proposal to permit exercise prices without a range limitation would be identical to those adopted by the Chicago Board Options Exchange, Incorporated (''CBOE'') for options on the CBOE Volatility Index (''VIX'').[17] Amendment No. 1 provides that the exercise price ranges for VOLS will be subject to the exercise price range limitations under BOX Rule 6090(c)(3).[18]

The Exchange states that its rules provide that index option contracts may expire at three-month intervals or in consecutive months.[19] The Exchange proposes to list VOLS in six consecutive expiration months.[20] In addition, long-term option series having up to 180 months to expiration[21] and Short Term Option Series[22] in VOLS may also be

[3] *See* Securities Exchange Act Release No. 74178 (January 30, 2015), 80 FR 6558 (February 5, 2015) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 74526 (March 18, 2015), 80 FR 15653 (March 24, 2015). The Commission designated a longer period within which to take action on the proposed rule change and designated May 6, 2015, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Amendment No. 1; *see also infra* notes 14–18 and accompanying text.

[7] *See* letter from John O'Connell, Financial Integration, to Commission, dated February 8, 2015 (''O'Connell Letter'').

[8] Options settling to the Index are hereafter referred to as VOLS.

[9] The Exchange states that realized volatility is the ''actual volatility,'' ''statistical volatility,'' or ''asset volatility'' that the underlying asset has displayed over a specific period. *See* Notice, *supra* note 3, at 6559.

[10] According to the Exchange, SPY has historically been the largest and most actively-traded exchange-traded fund in the United States as measured by its assets under management and the value of shares traded. *See id.*

[11] *See id.* (describing in more detail the calculation methodology for the Index).

[12] According to the Exchange, if the current published value of SPY is not available, because of a market disruption event where the market cannot open and there is no closing price for SPY, for example, the Index will continue to be calculated and disseminated. The calculation of the Index will compensate for the missing day's returns by lowering the value of ''n'' in the formula by the number of days that there is no closing price for SPY. *See id.*

[13] The Exchange represents that after the market close, the real-time formula and the formula used calculate to the Index will have exactly the same value. *See id.* at 6559–6560 (describing in more detail the calculation of the real-time version of the Index).

[14] *See* Amendment No. 1.

[15] *See* BOX Rule 6090(c)(3).

[16] *See* Notice, *supra* note 3, at 6560.

[17] *See id.*

[18] Amendment No. 1 also modifies Exhibit 5 by striking from the proposed text of BOX Rule 6090(c)(7) an erroneous reference to BOX Rules 6090(c)(3) and (c)(4). *See* Amendment No. 1.

[19] *See* Notice, *supra,* note 3, at 6560; BOX Rule 6090(a)(3).

[20] For example, the Exchange states that six monthly expirations from January through June may be listed. This is consistent with BOX Rule 6090(a)(3), which permits the Exchange to list up to six expiration months at any one time. *See* Notice, *supra* note 3, at 6560.

[21] *See* BOX Rule 6090(b)(1).

[22] *See* IM–6090–2 to BOX Rule 6090. The Exchange states that it may open Short Term Option Series for trading on any Thursday or Friday that

Continued

listed and traded.[23] VOLS will be quoted and traded in U.S. dollars.[24]

The Exchange believes that the Index is a broad-based index, as that term is defined in BOX Rule 6010(j).[25] The Exchange proposes that there shall be no position or exercise limits for VOLS, and also proposes to apply margin requirements for the purchase and sale of VOLS that are identical to the margin requirements adopted by CBOE for options on the VIX.[26]

In addition, the Exchange proposes that the trading of options on the Index will be subject to the same rules that currently govern the trading of Exchange index options, including sales practice rules and trading rules.[27] Trading of VOLS will also be subject to the trading halt procedures applicable to other index options traded on the Exchange.[28] Further, Section 4000 of the Exchange's rules, which is designed to protect public customer trading, will apply to trading in VOLS.

The Exchange believes that because the Index will settle using published quotes for SPY and there are currently no position limits for SPY options, it is appropriate not to impose position or exercise limits for VOLS. The Exchange notes that because the size of the market underlying SPY options is so large, it should dispel concerns regarding market manipulation. The Exchange believes that the same reasoning applies to VOLS since the value of VOLS is derived from the realized volatility of SPY. The Exchange also notes that VIX options are not subject to any position or exercise limits.[29] The Exchange represents that it has an adequate surveillance program in place for the VOLS product and intends to apply to it the same program procedures that it applies to the Exchange's other options products.[30] The Exchange states that its surveillance procedures will allow the Exchange to adequately surveil for any potential manipulation in the trading of VOLS. The Exchange states that, in its normal course of surveillance, it will monitor for any potential manipulation of the Index settlement value according to the Exchange's current procedures. In addition, the Exchange notes that it is a member of the Intermarket Surveillance Group, through which it can coordinate surveillance and investigative information sharing in the stock and options markets with all of the U.S. registered stock and options markets. The Exchange also represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of VOLS.[31]

The Exchange proposes that proposed rule change to list and trade VOLS be approved on a pilot basis for a period of twelve months. As part of the Pilot Program, the Exchange committed to submit a pilot program report to the Commission two months prior to the expiration date of the pilot program (the ''annual report'').[32] The annual report would include an analysis of volume, open interest, and trading patterns. The analysis would examine trading in VOLS as well as trading in SPY. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide an analysis of index price volatility and SPY trading activity. In addition to the annual report, the Exchange committed to provide the Commission with periodic interim reports while the pilot is in effect that would contain some, but not all, of the information contained in the annual report (''interim reports''). In its filing, BOX notes that it would provide the annual and interim reports to the Commission on a confidential basis.[33]

III. Discussion and Commission Findings

After careful consideration of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[34] and, in particular, the requirements of Section 6 of the Act.[35] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[36] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Commission believes that the proposed VOLS options product provides investors with an additional trading and hedging mechanism. Further, as noted above, the Commission received one comment letter in support of the proposal and endorsed the usefulness of the VOLS products for these purposes. The comment letter stated, ''[t]hese options will be extremely helpful for hedging index option exposure, equity portfolios, and as a risk-management tool for hedge fund managers.'' [37] In addition, the Commission believes that the proposal will allow BOX to conduct a limited and carefully monitored pilot for the listing and trading of VOLS, as proposed.

The Commission believes that the Exchange's proposal to impose no position or exercise limits on VOLS is appropriate and consistent with the Act. The Commission also believes that the proposed strike price intervals are consistent with the Act. $0.50 or greater strikes for VOLS where the strike price is less than $75, $1 or greater strike price intervals for VOLS where the strike price is $200 or less, and $5 or greater strike price intervals for VOLS when the strike price is greater than $200 should provide investors with added flexibility in the trading of VOLS options and will further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. Moreover, the Commission notes that, under the Exchange's rules, the strike prices of new or additional series of VOLs shall be reasonably related to—*i.e.,* within 30% of—the current value of the underlying index at the time such series are first opened for trading.[38] The Commission also notes that the Exchange has represented that it has the necessary system capacity to

is a business day and that expire on each of the next five Fridays that are business days and are not Fridays in which monthly options series or quarterly options series expire. *See* Notice, *supra* note 3, at 6561; *see also* IM–6090–2(a) to BOX Rule 6090. The Exchange states that the interval between strike prices on Short Term Options Series may be $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150. During the month prior to expiration of an index option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-Short Term Option shall be the same as the strike price intervals for the Short Term Option. *See* Notice, *supra* note 3, at 6561; *see also* IM–6090–2(b)(5) to BOX Rule 6090.

[23] *See* Notice, *supra* note 3, at 6559.

[24] *See* BOX Rule 6090(a)(1).

[25] BOX Rule 6010(j) defines the term ''broad-based index'' as an index designed to be representative of a stock market as a whole or a range of companies in unrelated industries.

[26] The Exchange has proposed to amend BOX Rule 10120 (Margin Requirements) to make clear that the margin requirements for VOLS will be identical to those adopted by CBOE for options on the VIX. *See* CBOE Rule 12.3.

[27] *See* Notice, *supra* note 3, at 6561.

[28] *Id.* at 6560; *see also* BOX Rule 6080(c).

[29] *See* Notice, *supra* note 3, at 6560–6561.

[30] *See id.* at 6561.

[31] *Id.*

[32] *Id.* at 6561–6562.

[33] *Id.* at 6562.

[34] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[35] 15 U.S.C. 78f.

[36] 15 U.S.C. 78f(b)(5).

[37] *See* O'Connell Letter, *supra* note 7, at 1.

[38] *See* BOX Rule 6090(c)(3) and (c)(4).

handle the additional quotations and messages associated with the listing and trading of VOLS.[39]

The Commission also believes that it is consistent with the Act to apply margin requirements to the proposed VOLS product that are identical to the margin requirements adopted by the CBOE for options on the VIX. The Exchange has represented that BOX options participants and their associated persons are bound by the initial and maintenance margin requirements of either the CBOE or the New York Stock Exchange, pursuant to BOX Rule 10120.[40] As the CBOE VIX measures the expected volatility of the S&P 500 Index, the Commission believes it is acceptable to apply the same margin requirements applying to VIX options to VOLS, which are options on an index measuring the realized volatility of SPY. The Commission further believes that the Exchange's proposed minimum trading increment, series openings, and other aspects of the proposed rule change are appropriate and consistent with the Act.

In the Commission's order approving the listing and trading of P.M.-settled options on the S&P 500 Index on CBOE,[41] the Commission noted that the potential impact on the market at expiration for the underlying component stocks for a P.M.-settled, cash-settled index option remained unclear, given past experience with the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets and the enhanced closing procedures that are now in use at the primary equity markets.[42] To assist the Commission in assessing any potential impact of a P.M.-settled VOLS product on the options markets as well as the underlying cash equities markets, BOX will be required to submit data to the Commission as a condition of Commission approval of the VOLS product on a pilot basis. The Commission believes that BOX's proposed twelve-month pilot, together with the data and analysis that BOX should provide to the Commission, should allow BOX and the Commission to monitor for and assess any potential for adverse market effects. Specifically, the data and analysis should assist the Commission in evaluating the effect of allowing P.M. settlement for VOLS on SPY.

BOX's proposed twelve-month pilot will enable the Commission to collect current data to assess and monitor for any potential for impact on the markets. In particular, the data collected from BOX's Pilot Program will help inform the Commission's consideration of whether the pilot should be modified, discontinued, extended, or permanently approved. The Pilot Program information should help the Commission assess the impact on the markets and determine whether other changes are necessary. Furthermore, the Exchange's ongoing analysis of the pilot should help it monitor any potential risks from large P.M.-settled positions and take appropriate action on a timely basis if warranted.

As a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,[43] to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. In this regard, the Commission notes that trading of VOLS will be subject to the same rules that currently govern the trading of other index options on the Exchange.[44] In addition, as noted above, the Exchange has asserted that the Index settlement value is not susceptible to manipulation.[45] Moreover, the Exchange has represented that it has an adequate surveillance program in place for options traded on the Index, and will monitor for any potential manipulation of the Index settlement value according to its current surveillance procedures.[46] In approving the proposed listing and trading of the Index options, the Commission has also relied on BOX's representation that it has the necessary system capacity to support the new options series that will result from this proposal.[47]

Accordingly, for the reasons stated above, the Commission finds good cause, pursuant to Section 19(b)(2)[48] of the Act, for approving the Exchange's proposal, as modified by Amendment No. 1, prior to the 30th day after the date of publication of the notice in the **Federal Register**.

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–BOX–2015–06 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–BOX–2015–06. 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 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–BOX–2015–06 and should be submitted on or before June 1, 2015.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[49] that the proposed rule change (SR–BOX–2015–06), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis for a twelve-month pilot period set to expire on May 6, 2016.

[39] *See* Notice, *supra* note 3, at 6561.

[40] *Id.* at 6560.

[41] *See* Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013).

[42] *Id.* at 10669.

[43] 15 U.S.C. 78f(b)(1).

[44] *See supra* note 27 and accompanying text.

[45] *See* Notice, *supra* note 3, at 6561.

[46] *Id.*

[47] *Id.*

[48] 15 U.S.C. 78s(b)(2).

[49] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–11275 Filed 5–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74873; File No. SR–NASDAQ–2015–044]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust High Income ETF, a Series of First Trust Exchange-Traded Fund VI

May 5, 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 24, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes a rule change with respect to the First Trust High Income ETF (the ''Fund'') of First Trust Exchange-Traded Fund VI (the ''Trust''), the shares of which have been approved by the Commission for listing and trading under NASDAQ Rule 5735 (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reflect changes to the means of achieving the Fund's investment objectives. The Commission has approved the listing and trading of Shares under NASDAQ Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[4] The Exchange believes the proposed rule change reflects no significant issues not previously addressed in the Prior Release. The Fund is an actively managed exchange-traded fund (''ETF''). The Shares are offered by the Trust, which was organized as a Massachusetts business trust on June 4, 2012. The Trust, which is registered with the Commission as an investment company, has filed a registration statement on Form N–1A (''Registration Statement'') relating to the Fund with the Commission.[5] First Trust Advisors L.P. (''First Trust Advisors'') is the investment adviser (''Adviser'') to the Fund.

The Prior Release provided that the Fund's primary investment objective would be to provide current income and that its secondary investment objective would be to provide capital appreciation. Further, the Prior Notice provided that the Fund would pursue its objectives by investing in large-cap U.S. exchange-traded equity securities and by utilizing an ''option strategy'' consisting of writing (selling) exchange-traded covered call options on the Standard & Poor's 500 Index (the ''Index'').

The Exchange now proposes two modifications to the description of the measures utilized by the Adviser to implement the Fund's investment objectives. As described in further detail below, these pertain to the following: (1) The Fund's investment primarily in large-cap U.S. exchange-traded equity securities; and (2) the permissible terms to expiration for the U.S. exchange-traded covered call options written (sold) by the Fund. These modifications are being proposed to enhance the Adviser's flexibility in pursuing the Fund's investment objectives. However, the equity securities in which the Fund would invest and the options which the Fund would write would continue to be limited to U.S. exchange-traded securities and options, respectively. The Adviser represents that there would be no change to the Fund's investment objectives. Except as provided herein, all other facts presented and representations made in the Prior Release would remain unchanged. The Fund and the Shares would continue to comply with all initial and continued listing requirements under NASDAQ Rule 5735.

The Fund's Investments Primarily in Large-Cap U.S. Exchange-Traded Equity Securities

The Prior Release stated that in pursuing its investment objectives, under normal market conditions,[6] the

[50] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The Commission approved NASDAQ Rule 5735 (formerly NASDAQ Rule 4420(o)) in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission previously approved the listing and trading of the Shares of the Fund. *See* Securities Exchange Act Release No. 70829 (November 7, 2013), 78 FR 68482 (November 14, 2013) (SR–NASDAQ–2013–122) (''Prior Order''). *See also* Securities Exchange Act Release No. 70460 (September 20, 2013), 78 FR 59402 (September 26, 2013) (SR–NASDAQ–2013–122) (''Prior Notice,'' and together with the Prior Order, the ''Prior Release''). The Fund and the Shares are currently in compliance with the requirements set forth in the Prior Release.

[5] *See* Post-Effective Amendment No. 51 to Registration Statement on Form N–1A for the Trust, dated January 21, 2015 (File Nos. 333–182308 and 811–22717). The descriptions of the Shares and the Fund contained herein are based, in part, on information in the Registration Statement. In addition, the Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the Investment Company Act of 1940 (the ''1940 Act''). *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477).

[6] According to the Prior Release, the term ''under normal market conditions'' as used therein included, but was not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. The Prior Release also provided that in periods of extreme market disturbance, the Fund may take temporary defensive positions, by overweighting its portfolio in cash/cash-like instruments; however, to the extent possible, the Adviser would continue to seek to achieve the Fund's investment objectives.

Fund would invest primarily in large-cap U.S. exchange-traded equity securities. The Exchange proposes to amend this statement in the Prior Release by deleting the term ''large-cap.'' [7] Therefore, going forward, in pursuing its investment objectives, under normal market conditions, while the Fund would continue to invest primarily in U.S. exchange-traded equity securities, it would not be required to invest primarily in ''large-cap'' U.S. exchange-traded equity securities. The Adviser believes that the ability to invest primarily in U.S. exchange-traded equity securities of any market capitalization would, by expanding the range of potential investments, provide it with additional flexibility to pursue, and enhance its ability to achieve, the Fund's investment objectives.

Permissible Terms to Expiration for Call Options

As provided in the Prior Release, the option portion of the Fund's portfolio generally consists of U.S. exchange-traded covered calls or covered call spreads on the Index that are written by the Fund. The Prior Release provided that the call options written by the Fund would typically be a laddered portfolio of one week, one month, two months and three months and would typically be written at-the-money to slightly out-of-the-money. The Exchange is now proposing a change that would increase flexibility with respect to the permissible term for call option expirations. In this regard, the Exchange proposes to modify the foregoing to provide that, going forward, the call options written by the Fund would be a laddered portfolio of call options with expirations of less than one year, written at-the-money to slightly out-of-the-money.

Surveillance

The Exchange represents that trading in the Shares would continue to be subject to the existing trading surveillances, administered by both NASDAQ and also the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[8] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, in the U.S. exchange-traded equity securities in which the Fund invests, and in the U.S. exchange-traded options which the Fund writes with other markets or other entities that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement,[9] and FINRA may obtain trading information regarding trading in the Shares and such equity securities and options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and in such equity securities and options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [10] in general and Section 6(b)(5) of the Act [11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NASDAQ Rule 5735. Consistent with the Prior Release, the Exchange represents that trading in the Shares would continue be subject to the existing trading surveillances, administered by both NASDAQ and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. In addition, the equity securities in which the Fund would invest and the options which the Fund would write would continue to be limited to U.S. exchange-traded securities and options, respectively, that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Exchange would continue to be able to obtain information regarding trading in the Shares and in such equity securities and options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objectives. The Adviser represents that the purpose of the proposed changes is to provide it with greater flexibility in meeting the Fund's investment objectives by permitting: (1) The Fund to invest primarily in U.S. exchange-traded equity securities of any market capitalization; and (2) the covered call options written by the Fund to be a laddered portfolio of call options with expirations of less than one year, written at-the-money to slightly out-of-the-money. In addition, consistent with the Prior Release, net asset value (''NAV'') per Share would continue to be calculated daily and the NAV and Disclosed Portfolio (as defined in the Prior Release) would continue to be made available to all market participants at the same time. Further, a large amount of information would continue to be publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Intraday indicative Value (as defined in the Prior Release), available on NASDAQ OMX Information LLC proprietary index data service, would continue to be updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session.[12] Moreover, on each business day, before commencement of trading on the Shares in the Regular Market Session on the Exchange, the Fund would continue to disclose on the Distributor's Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.

[7] To the extent necessary to make them consistent, additional statements and representations included in the Prior Release would also be deemed to be similarly modified.

[8] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[9] For a list of the current members of ISG, *see www.isgportal.org.*

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. As noted above, the additional flexibility to be afforded to the Adviser under the proposed rule change is intended to enhance the Adviser's ability to meet the Fund's investment objectives. Further, as noted above, the Exchange represents that trading in the Shares would continue to be subject to the existing trading surveillances, administered by both NASDAQ and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. In addition, as indicated in the Prior Release, investors would continue to have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Adviser represents that the proposed rule change, as described above, is consistent with the Fund's investment objectives, and would further assist the Adviser in achieving such investment objectives.

For the above reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will permit the Adviser additional flexibility, thereby helping the Fund to achieve its investment objectives and enhancing competition among issues of Managed Fund Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder in that it effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not 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.

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–NASDAQ–2015–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *http://www.sec.gov/rules/sro.shtml.*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2015–044 and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74875; File No. SR–NYSEMKT–2015–37]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees NYSE Amex Options Market Data To Add a Late Fee in Connection With Failure To Submit the Non-Display Use Declaration

May 5, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 27, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE Amex Options market data to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Amex Options market data, as set forth on the NYSE Amex Options Proprietary Market Data Fee Schedule (''Fee Schedule''), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for ArcaBook for Amex Options, which consists of ArcaBook for Amex Options—Trades, ArcaBook for Amex Options—Top of Book, ArcaBook for Amex Options—Depth of Book, ArcaBook for Amex Options—Complex, ArcaBook for Amex Options—Series Status, and ArcaBook for Amex Options—Order Imbalance, in May 2013 and amended those fees in September 2014.[4] In November 2014, the Exchange established the current fees, including non-display use fees, for ArcaBook for Amex Options—Complex on a standalone basis.[5] The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE Amex Options market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data. In connection with the fee changes in the 2014 Non-Display Filing, the Exchange required data recipients that receive real-time NYSE Amex Options market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.[6] The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient's use of real-time NYSE Amex Options market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient's data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE Amex Options market data, the Exchange needs to have current and accurate information about the use of NYSE Amex Options market data. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of $1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE ArcaBook for Amex Options or NYSE ArcaBook for Amex Options—Complex that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE Amex Options market data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has completed and submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration. A Non-Display Use Declaration that is clearly incomplete would not be considered to have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE Amex Options market data to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above, and to change the numbering for the existing endnotes as needed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE Amex Options market data, the Exchange needs to have current and accurate information about the use of NYSE Amex Options market data. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect

[4] *See* Securities Exchange Act Release Nos. 69553 (May 10, 2013), 78 FR 28926 (May 16, 2013) (SR–NYSEMKT–2013–40) (''2013 Non-Display Filing'') and 73008 (Sept. 5, 2014), 79 FR 54325 (Sept. 11, 2014) (SR–NYSEMKT–2014–73) (''2014 Non-Display Filing'').

[5] *See* Securities Exchange Act Release No. 73589 (Nov. 13, 2014), 79 FR 68933 (Nov. 19, 2014) (SR–NYSEMKT–2014–94).

[6] The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE Amex Options market data feeds.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[9] The CTA imposes a monthly fee of $2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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)[12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2015–37 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–NYSEMKT–2015–37. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com*. 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–NYSEMKT–2015–37 and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

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[9] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74872; File No. SR–NYSE–2015–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Order Imbalances To Add a Late Fee in Connection With Failure To Submit the Non-Display Use Declaration

May 5, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 27, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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

The Exchange proposes to amend the fees for NYSE Order Imbalances to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 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 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Order Imbalances, as set forth on the NYSE Proprietary Market Data Fee Schedule (''Fee Schedule''), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for NYSE OpenBook, NYSE Trades and NYSE BBO in April 2013 and amended those fees and added non-display fees for NYSE Order Imbalances in September 2014.[4] The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data.[5] In connection with the fee changes in the 2014 Non-Display Filing, the Exchange required data recipients that receive real-time NYSE market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.[6] The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient's use of real-time NYSE market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient's data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE Order Imbalances, the Exchange needs to have current and accurate information about the use of NYSE Order Imbalances. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of $1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE Order Imbalances that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE Order Imbalances data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has completed and submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration.[7] A Non-Display Use Declaration that is clearly incomplete would not be considered to have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE Order Imbalances to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above,

[4] *See* Securities Exchange Act Release Nos. 69278 (April 2, 2013), 78 FR 20973 (April 8, 2013) (SR–2013–25 [sic]) (''2013 Non-Display Filing'') and 72923 (Aug. 26, 2014), 79 FR 52079 (Sept. 2, 2014) (SR–NYSE–2014–43) (''2014 Non-Display Filing'').

[5] The non-display fee structure established in the 2013 Non-Display Filing replaced a monthly reporting obligation with respect to non-display devices with the requirement to submit the non-display use declaration. The Exchange also notes that if a data recipient only subscribes to products for which there are no non-display usage fees, *e.g.,* NYSE Realtime Reference Prices, then no declaration is required.

[6] The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

[7] The Exchange has established the Non-Display Declaration Late Fee with respect to NYSE OpenBook. See SR–NYSE–2015–20.

and to change the numbering for the endnotes that follow as needed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE Order Imbalances, the Exchange needs to have current and accurate information about the use of NYSE Order Imbalances. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE Order Imbalances feed.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[10] The CTA imposes a monthly fee of $2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–21 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–NYSE–2015–21. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4), (5).

[10] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

available publicly. All submissions should refer to File Number SR–NYSE–2015–21 and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–11271 Filed 5–8–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14297 and #14298]

Kentucky Disaster #KY–00054

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4217–DR), dated 05/01/2015.

Incident: Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides.

Incident Period: 04/02/2015 through 04/17/2015.

Effective Date: 05/01/2015.

Physical Loan Application Deadline Date: 06/30/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2015, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Bath, Bourbon, Carter, Elliott, Franklin, Jefferson, Lawrence, Madison, Rowan, Scott.

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Anderson, Boyd, Bullitt, Clark, Estill, Fayette, Fleming, Garrard, Grant, Greenup, Hardin, Harrison, Henry, Jackson, Jessamine, Johnson, Lewis, Martin, Menifee, Montgomery, Morgan, Nicholas, Oldham, Owen, Rockcastle, Shelby, Spencer, Woodford.

Indiana: Clark, Floyd, Harrison.

West Virginia: Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14297B and for economic injury is 142980.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–11290 Filed 5–8–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14299 and #14300]

Kentucky Disaster #KY–00052

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4217–DR), dated 05/01/2015.

Incident: Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides.

Incident Period: 04/02/2015 through 04/17/2015.

Effective Date: 05/01/2015.

Physical Loan Application Deadline Date: 06/30/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bath, Bourbon, Breathitt, Bullitt, Clark, Elliott, Estill, Franklin, Jefferson, Johnson, Lawrence, Lee, Lewis, Madison, Magoffin, Metcalfe, Morgan, Owsley, Wolfe.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14299B and for economic injury is 14300B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–11289 Filed 5–8–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting

[14] 17 CFR 200.30–3(a)(12).

and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before June 10, 2015.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The Office of Veterans Business Development (OVBD) at the U.S. Small Business Administration implements applicable sections of the Small Business Act, of Public Laws and Executive Orders governing veteran programs, and to support the SBA mission to assist eligible American veterans and Reservist Component service members by providing access to the tools and resources necessary for entrepreneurs to start, run, and grow their businesses. OVBD manages the Veterans Business Outreach Centers (VBOC) which was established in 1999 pursuant to Public Law 106–50. VBOCs offer pre-business plan workshops, concept assessment and business plan preparation, feasibility analysis entrepreneurship counseling and training, online assistance, and mentorship service to veteran entrepreneurs and veteran-owned small business concerns controlled by veterans, service-disabled veterans, and Reserve Component members. As part of OVBD's effort to enhance the services provided by VBOCs to veterans and veteran-owned small businesses, OVBD has acquired the service of a research firm to conduct a series of data collection. In addition, a part of the forthcoming new cycle of grant solicitation for 2015, SBA will assess the population assisted by current VBOCs, funded in 2010, the services provided to individuals, the preliminary impact of services on the business goals of clients, client satisfaction with VBOCs, and lessons learned and recommendations by the VBOCs and clients. Through the WebCATS/Neoserra system, SBA has the ability to collect some data on VBOC clients and VBOC activities. However, to get a better understanding of the full range of topics mentioned above, SBA needs to collect survey and interview data from VBOC clients, directors, and staff (non-directors of VBOCs that help provide services to people). Specifically, SBA proposes the use of five different instruments for data collection and analysis. These instruments are: (1) A VBOC client survey; (2) a VBOC director survey; (3) VBOC client interviews; (4) VBOC director interviews; and (5) VBOC staff interviews. SBA plans to administer each instrument to more than nine individuals. The surveys will be administered electronically, while the interviews will be conducted either in-person or via phone. The interview questions will contain all open-ended questions, while the web-based survey will contain both open- and close-ended questions. The types of information that will be collected in the instruments can be found in the ''Summary of Information Collection'' section below. Quantitative analysis (the primary method of data analysis for the survey data) and qualitative analysis (the primary method of data analysis for the interview data) will be used on the data collected. Quantitative analysis will consist of univariate and multivariate statistical analyses, while qualitative analysis will consist of establishing clear rules for interpretation and finding themes in the interview data. The information collected and analyzed from these instruments will contribute to performance metrics and program goals as well as recommendations on improving program practices.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

Title: Evaluation of the Veterans Business Outreach Centers.

Description of Respondents: Veterans Business Outreach Centers.

Form Number: N/A.

Estimated Annual Respondents: 2,251.

Estimated Annual Responses: 2,251.

Estimated Annual Hour Burden: 2,313.08.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–11267 Filed 5–8–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before June 10, 2015.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Each form is used to notify recipients of grant awards and cooperative agreement awards. Form 1222 is used also to document logistical and budgetary information gathered from the awardees application and proposal. Awardees/Respondents are universities, colleges state and local government, for-profit and non-profit organization. Form 1224 is used to certify the cost sharing by the recipient.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

Title: Notice of Award and Grant/Cooperative Agreement Cost Sharing Proposal.

Description of Respondents: SBA Grant Recipients.

Form Numbers: SBA Forms 1222 and 1224.

Estimated Annual Respondents: 2,338.

Estimated Annual Responses: 2,338.

Estimated Annual Hour Burden: 187,040.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–11268 Filed 5–8–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14295 and #14296]

Kentucky Disaster #KY–00055

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kentucky (FEMA–4216–DR), dated 04/30/2015.

Incident: Severe Winter Storms, Snowstorms, Flooding, Landslides, and Mudslides.

Incident Period: 02/15/2015 through 02/22/2015.

Effective Date: 04/30/2015.

Physical Loan Application Deadline Date: 06/29/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/30/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Boyd, Boyle, Caldwell, Clark, Estill, Floyd, Harlan, Jackson, Jessamine, Knott, Knox, Lawrence, Lee, Letcher, Lyon, Marshall, Menifee, Metcalfe, Morgan, Pendleton, Perry, Pike, Powell, Simpson, Taylor, Washington, Wolfe.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14295B and for economic injury is 14296B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–11278 Filed 5–8–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

SBIR/STTR Logo Design Competition Announcement: Correction

The Small Business Administration published a document in the **Federal Register** of May 5, 2015 (Vol. 80, No. 86, Pages 25763–25765), concerning the announcement of a competition to design a logo for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs. The document needs to be corrected to reflect the fact that the only judges for the competition will be SBA Officials and other SBIR/STTR Program Managers. The current document indicates that at least one of the judges will be from the National Endowment for the Arts.

In the document printed on May 5, 2015, the first full sentence on page 25764 under the caption: ''5. Selection of Winners'' includes a reference that at least one official from the National Endowment for the Arts will serve as a judge. This reference should be removed and the sentence should read:

5. *Selection of Winners:* SBA will select a judging panel that will consist of SBA Officials and Program Managers of the SBIR/STTR participating Federal agencies.

John R. Williams,

Director, Office of Innovation and Technology.

[FR Doc. 2015–11277 Filed 5–8–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0059]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 51 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before June 10, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0059 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any

personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 51 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Galen W. Abitz

Mr. Abitz, 46, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Abitz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Abitz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Kenneth V. Bartlett

Mr. Bartlett, 56, has had ITDM since 1991. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bartlett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bartlett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Derek A. Becker

Mr. Becker, 23, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Becker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Becker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Robert J. Boardwick

Mr. Boardwick, 54, has had ITDM since 1994. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Boardwick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boardwick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Delano W. Brede

Mr. Brede, 51, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brede understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brede meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Iowa.

Stanley L. Buckley

Mr. Buckley, 62, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Buckley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Buckley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Matthew J. Burris

Mr. Burris, 31, has had ITDM since 1997. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Burris understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Burris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Robert E. Clark, Jr.

Mr. Clark, 42, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Stephen M. Cooper

Mr. Cooper, 23, has had ITDM since 2000. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cooper understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cooper meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Wisconsin.

George L. Crockett

Mr. Crockett, 67, has had ITDM since 1995. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Crockett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crockett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Thomas J. Cummings

Mr. Cummings, 64, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cummings understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cummings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Gary E. Davidge

Mr. Davidge, 69, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Davidge understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Davidge meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Delawrence D. Dillard

Mr. Dillard, 49, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dillard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dillard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Stephen L. Drake

Mr. Drake, 46, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Drake understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Drake meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Kevin P. Fulcher

Mr. Fulcher, 60, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fulcher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fulcher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

Cecil E. Glenn

Mr. Glenn, 66, has had ITDM since 1991. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Glenn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Glenn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from California.

David E. Goddard, Jr.

Mr. Goddard, 44, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Goddard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Goddard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virginia.

Wesley H. Green

Mr. Green, 50, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Green understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Green meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oklahoma.

David H. Heins

Mr. Heins, 54, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Heins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Heins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Thomas P. Henry

Mr. Henry, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Henry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Henry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Virginia.

Leslie W. Holmes

Mr. Holmes, 66, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holmes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holmes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Delaware.

Korry W. Hullinger

Mr. Hullinger, 26, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hullinger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hullinger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

James V. Kuhns, Jr.

Mr. Kuhns, 51, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kuhns understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kuhns meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Craig C. Leckie

Mr. Leckie, 33, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Leckie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Leckie meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oregon.

Robert T. Lee

Mr. Lee, 51, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Tyler S. Lewis

Mr. Lewis, 50, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lewis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alaska.

Zackery L. Lowe

Mr. Lowe, 31, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lowe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lowe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Eugene T. Mapp

Mr. Mapp, 67, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mapp understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mapp meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from South Carolina.

Edward W. Masser

Mr. Masser, 50, has had ITDM since 1982. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Masser understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Masser meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Robert S. Medberry

Mr. Medberry, 23, has had ITDM since 1992. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Medberry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Medberry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Brian L. Merlo

Mr. Merlo, 28, has had ITDM since 2006. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Merlo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Merlo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

Brian K. Miesner

Mr. Miesner, 40, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miesner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miesner meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

James D. Miller

Mr. Miller, 58, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Isse A. Moalin

Mr. Moalin, 44, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moalin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moalin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arizona.

Patrick S. Murray

Mr. Murray, 47, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Murray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Murray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Oklahoma.

Douglas W. Olson

Mr. Olson, 27, has had ITDM since 2000. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Olson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Olson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Lisa R. Olson

Ms. Olson, 45, has had ITDM since 2014. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Olson understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Olson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Montana.

John C. Osterhout

Mr. Osterhout, 56, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Osterhout understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Osterhout meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Kevin J. Riedl

Mr. Riedl, 40, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Riedl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Riedl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Richard E. Roberts

Mr. Roberts, 45, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roberts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roberts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Ian L. Robinson

Mr. Robinson, 63, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Robinson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Robinson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Stephen D. Sandine

Mr. Sandine, 45, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sandine understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sandine meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Michael J. Simko

Mr. Simko, 25, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Simko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Simko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Steven L. Sobczak

Mr. Sobczak, 50, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sobczak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sobczak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Richard J. Tallen

Mr. Tallen, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tallen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tallen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Brett E. Thein

Mr. Thein, 56, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thein understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thein meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Georgia.

Ryan R. Turnbull

Mr. Turnbull, 37, has had ITDM since 1989. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Turnbull understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Turnbull meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Jonathan C. Walston

Mr. Walston, 39, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Walston understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Walston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Graciano Wharton-Ramirez

Mr. Wharton-Ramirez, 60, has had ITDM since 2003. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wharton-Ramirez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wharton-Ramirez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from New Jersey.

Rick G. White

Mr. White, 61, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Randall L. Williamson

Mr. Williamson, 57, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Williamson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williamson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0059 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0059 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: May 5, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–11317 Filed 5–8–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2014–0314]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 39 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on April 18, 2015. The exemptions expire on April 18, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On March 18, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 39 individuals and requested comments from the public (80 FR 14232). The public comment period closed on April 17, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 39 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 39 applicants have had ITDM over a range of one to 33 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the March 18, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 39 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Scott A. Anderson (MN)
Thomas F. Belloli (MA)
Peter A. Breister (WI)
Donald J. Carino (IL)
Marc B. Curtis (NV)
Aaron M. Dixon (SD)
Kara A. Edmondson (AL)
James Gentile (NJ)
Bradley O. Gibson (TX)
Christopher L. Gossetti (RI)
Theodore F. Griffith (MA)
Lawrence E. Handel (OR)
Danny P. Hersh (NE)
Timothy S. Houghton (MA)
Bryan W. Hughes-Gariepy (NY)
James L. Johnson (GA)
Anthony D. Lake (NC)
Thomas Landis (IL)
John T. Lohr (PA)
Grant L. Lupold (PA)
Nathan R. McGathey (IN)
Mark A. Mesnard (OH)
Gene K. Milburn (ID)
William J. Miles (NY)
Andrew M. Oliver (MI)
Spencer J. Olson (ID)

Richard L. Peak (KS)
Anthony P. Reith (PA)
Peter A. Rubinetti (NJ)
Steven Smith (FL)
Robert L. Snyder (MA)
John H. Spierings (WI)
Robert E. Stokes (WA)
Corey R. Sturm (IN)
Rick M. Vierstraete (MN)
Christopher W. Williams (ID)
James M. Wilson (MI)
Robert L. Witt (VT)
Paul G. Wright (CO)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 4, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–11312 Filed 5–8–15; 8:45 am]

BILLING CODE 4910–EXP

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 79]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the fifty-third meeting of the RSAC, a Federal Advisory Committee that develops railroad safety recommendations through a consensus process. The RSAC meeting topics will include opening remarks from the FRA Acting Administrator, the FRA Associate Administrator for Safety/Chief Safety Officer, and status reports by the Recording Devices and Rail Integrity Working Groups. The Engineering Task Force also will provide a status report and there will be presentations on grade crossing issues, as well as the Pipeline and Hazardous Materials Safety Administration's Final Rule on Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains. This agenda is subject to change, including the possible addition of further proposed tasks.

DATES: The RSAC meeting is scheduled to commence at 9:30 a.m. on Thursday, May 28, 2015, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the Double Tree Hotel located at 1515 Rhode Island Avenue NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC Administrative Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6286; or Jamie Rennert, Deputy Associate Administrator for Regulatory & Legislative Operations, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 60 voting representatives from 39 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the RSAC ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks at *http://rsac.fra.dot.gov/.* Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC, on May 5, 2015.

Robert C. Lauby,

Associate Administrator for Safety, Chief Safety Officer.

[FR Doc. 2015–11269 Filed 5–8–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Provo City and Orem City, Utah County, UT, and Tarrant County, TX. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before October 8, 2015.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on each project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of

1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Provo-Orem Bus Rapid Transit, Provo City and Orem City, Utah County, UT. *Project sponsor:* Utah Transit Authority (UTA). *Project description:* UTA proposes to construct and operate a 10.5-mile long bus rapid transit project through Orem City and Provo City in Utah County. The project includes 18 stations, exclusive bus lanes, pedestrian ramp improvements, transit signal priority, and other necessary improvements. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact, dated March 27, 2015. *Supporting documentation:* Environmental Assessment, dated December 2014.

2. *Project name and location:* TEX Rail Corridor Project, Tarrant County, TX. *Project sponsor:* Fort Worth Transportation Authority. *Project description:* The proposed project is 27.2 miles of commuter rail transit operating in an exclusive right-of-way with at-grade and aerial sections between downtown Fort Worth, west of the Texas and Pacific Station, and the Dallas/Fort Worth International Airport at the Terminal A/B Station. The FTA issued a Record of Decision (ROD) for the project on September 29, 2014. After issuance of the ROD, the project sponsor proposed two changes to the project's design. Specifically, the project sponsor proposed to implement two stations, which had been deferred, in the City of North Richland Hills, TX and to construct a separate equipment maintenance facility in the City of Fort Worth, TX, instead of developing a shared equipment maintenance facility with the Trinity Railway Express as described in the Final Environmental Impact Statement (FEIS) and ROD. After a re-evaluation of the three proposed changes, FTA determined that the environmental impacts associated with the project changes did not warrant a Supplemental Environmental Impact Statement. This notice only applies to the discrete actions taken by FTA at this time. Nothing in this notice affects the FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and Amended Record of Decision, dated April 16, 2015. *Supporting documentation:* TEX Rail Reevaluation of Project Changes, dated March 2015, and Final Environmental Impact Statement, dated May 19, 2014.

Issued on: May 5, 2015.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2015–11313 Filed 5–8–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Customer Complaint Form

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comment concerning the renewal of an existing collection titled ''Customer Complaint Form.''

DATES: You should submit written comments by July 10, 2015.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0232, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting that OMB extend its approval of the following collection:

Title: Customer Complaint Form.

OMB Control No.: 1557–0232.

Description: The customer complaint form was developed as a courtesy for customers who contact the OCC's Consumer Assistance Group (CAG) and wish to file a formal, written complaint. The form offers a template for consumers to use to focus their issues and identify the information necessary to provide a complete picture of their concerns. Use of the form is entirely voluntary; however, use of the form helps to avoid the processing delays associated with incomplete complaints and allows CAG to process complaints more efficiently.

CAG uses the information included in a completed form to create a record of the consumer's contact, capture information that can be used to resolve the consumer's issues, and provide a database of information that is incorporated into the OCC's supervisory process.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Number of Respondents: 18,000.

Total Annual Responses: 18,000.

Frequency of Response: On occasion.

Total Annual Burden Hours: 1,494.

Comments submitted in response to this notice will be summarized and

included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information shall have practical utility;

(b) The accuracy of the OCC'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 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.

Date: May 6, 2015.

Mary H. Gottlieb,

Regulatory Specialist, Legislative & Regulatory Activities Division.

[FR Doc. 2015–11346 Filed 5–8–15; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request by Fiduciary for Distribution of United States Treasury Securities

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the ''Application for Relief on Account of Loss, Theft, or Destruction of United States Savings and Retirement Securities'' and ''Supplemental Statement Concerning United States Securities''.

DATES: Written comments should be received on or before July 10, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Ron Lewis; 200 Third Street Room 527, Parkersburg, WV 26106–1328, or *ron.lewis@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Titles: Application for Relief on Account of Loss, Theft, or Destruction of United States Savings and Retirement Securities and Supplemental Statement Concerning United States Securities.

OMB Number: 1530–0021 (Previously approved as 1535–0013 as a collection conducted by Department of the Treasury/Bureau of the Public Debt.)

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Number: FS Form 1048 and FS Form 2243.

Abstract: The information is requested to issue owners substitute securities or payment in lieu of lost, stolen or destroyed securities.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 72,000.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 24,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. 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.

Dated: April 30, 2015.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2015–11202 Filed 5–8–15; 8:45 am]

BILLING CODE 4810–AS–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission

ACTION: Notice of open public hearing—May 13, 2015, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: William A. Reinsch, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on Wednesday, May 13, 2015, on ''Hearing on China's Relations with Southeast Asia.''

Background: This is the sixth public hearing the Commission will hold during its 2015 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The hearing will focus on key developments in the security, diplomatic, and economic spheres of China's relations with countries in Southeast Asia and with the Association of Southeast Asian Nations (ASEAN). It will seek to understand how China's relations with the region may be changing and the implications of developments in China-Southeast Asia relations for the United States. The hearing will be co-chaired by Commissioners Carolyn Bartholomew and Daniel M. Slane. Any interested party may file a written statement by May 13, 2015, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date And Time: Room: TBA. Wednesday, May 13, 2015, start time TBA. A detailed agenda for the hearing will be posted to the Commission's Web site at *www.uscc.gov.* Also, please check our Web site for possible changes to the

hearing schedule. *Reservations are not required to attend the hearing.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov. Reservations are not required to attend the hearing.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub.L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: May 5, 2015.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2015–11264 Filed 5–8–15; 8:45 am]

BILLING CODE 1137–00–P

FEDERAL REGISTER

Vol. 80 Monday,
No. 90 May 11, 2015

Part II

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 226

Leasing of Osage Reservation Lands for Oil and Gas Mining; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

[156A2100DD/AAKC001030/A0A501010.999900 253G]

RIN 1076–AF17

Leasing of Osage Reservation Lands for Oil and Gas Mining

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is issuing its final revisions to the regulations addressing mineral development of the Osage minerals estate. This rule updates the leasing procedures and the rental, operations, safety and royalty requirements for oil and gas production on Osage mineral lands and is the result of a negotiated rulemaking.

DATES: This rule is effective on July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, P.O. Box 8002, Muscogee, OK 74402; telephone (918) 781–4608; fax (918) 718–4604; or email *osageregneg@bia.gov.* Additional information on the negotiated rulemaking can be found at: *http://www.bia.gov/osageregneg.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary of Rule
II. Background
III. Detailed Explanation of Revisions
IV. Explanation of Changes Made in Response to Departmental Review
V. Comments on the Proposed Rule and Responses
A. Overview/General
B. Comments Related to Section 226.1
C. Comments Related to Section 226.3
D. Comments Related to Section 226.4
E. Comments Related to Section 226.5
F. Comments Related to Section 226.6
G. Comments Related to Section 226.8
H. Comments Related to Section 226.9
I. Comments Related to Section 226.14
J. Comments Related to Section 226.15
K. Comments Related to Section 226.18
L. Comments Related to Section 226.19
M. Comments Related to Section 226.20
N. Comments Related to Section 226.25
O. Comments Related to Section 226.27
P. Comments Related to Section 226.29
Q. Comments Related to Section 226.33
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I. Executive Summary of Rule

This rule updates the existing oil and gas regulations governing Osage County, Oklahoma as set forth in 25 CFR part 226. It is intended to strengthen the management and administration of the Osage mineral estate for the benefit of the Osage. These provisions strengthen the rule's reporting and inspection requirements, offer more specificity regarding a lessee's obligations with respect to its mining operations, and adjust royalty rate calculations and bonding amounts, in order to protect the best interests of the Osage mineral estate, ensure safety, and discourage future regulatory violations.

II. Background

On October 14, 2011, the United States and the Osage Nation (formerly known and referred to in Rule 226 as the ''Osage Tribe'') signed a Settlement Agreement to resolve litigation regarding the United States' alleged mismanagement of the Osage Nation's oil and gas mineral estate, along with other unrelated claims. In the Settlement Agreement, the parties agreed ''to address means of improving the trust management of the Osage Mineral Estate, the Osage Tribal Trust Account, and Other Osage Accounts.'' The parties agreed that a review and revision of the existing regulations is warranted to better assist the Bureau of Indian Affairs (BIA or Bureau) in managing the Osage mineral estate. The parties agreed to engage in a negotiated rulemaking for this purpose. Pursuant to the required, applicable procedures, after the Tribal Trust Settlement was executed, the Department of the Interior (Department) established a Negotiated Rule Making Committee in July 2012 and commenced structured negotiations on the amendment and revision of Rule 226. For additional information on this negotiated rulemaking process, please visit *http://www.bia.gov/osageregneg/.*

The Negotiated Rule Making Committee submitted its report to BIA on April 25, 2013. On August 28, 2013, BIA published a proposed rule based on the Committee's report. *See* 78 FR 53083. In order to provide additional time for parties to comment on the proposed rule, BIA extended the original comment deadline until November 18, 2013. *See* 78 FR 68859 (November 1, 2013). After a thorough evaluation of the many comments by various stakeholders with respect to the proposed rule, BIA revised and amended the proposed rule to incorporate those changes and amendments that BIA considered meritorious and beneficial in preparing the final rule as published herein.

III. Detailed Explanation of Revisions

This final rule revises the existing rule for ''Leasing of Osage Reservation Lands for Oil and Gas Mining'' with the textual and substantive changes as set forth in Table 1. The BIA's additional revisions to the proposed rule that resulted from the comment period and BIA's consideration and evaluation of those comments (as set forth in Section IV below) were adopted in BIA's final rule as published herein and as set forth in Table 2.

TABLE 1

Current 25 CFR section	Final rule section	Final rule change
Part 226	Part 226	Throughout the final rule the use of ''Osage Tribal Council'' has been deleted and replaced with ''Osage Minerals Council'' (''OMC'') because the former no longer exists and the latter holds the authority to make decisions regarding the Osage minerals estate. Similarly, all references to ''lease cancellation'' in the existing rule have been changed to ''lease termination,'' unless the reference in the final rule is to a voluntary lease cancellation by a lessee. Also, to clarify time deadlines, all references to due dates are to be uniformly calculated by calendar days, unless specifically noted otherwise. In addition, the final rule adds the term ''other marketable product'' to existing references to oil and gas in order that other minerals will not leave a gap and resulting in unregulated minerals.
226.1	226.1	The final rule deletes the terms ''contract'' and ''agreement'' and substitutes the term ''lease''; provides definition for a ''lease;'' clarifies that ''an authorized representative of a lessee'' is bound by those regulations that apply to the lessee represented; deletes the definition for ''major purchaser'' because it is no longer relevant; replaces and combines the definitions for ''casinghead gas'' and ''natural gas'' into one definition for ''raw natural gas'' and ''gas''; adds definitions for the additional following new terms: ''avoidably lost,'' ''condensate,'' ''drainage,'' ''marketable condition,'' ''maximum ultimate economic recovery,'' ''natural gas liquids,'' ''notice to lessee,'' ''onshore oil and gas order,'' ''other marketable product,'' ''production in paying quantities,'' ''surface owner,'' and ''waste of oil and gas or other marketable product''.
N/A	226.2 (New)	The final rule sets forth sources of governing requirements for activities in Osage County related to oil and gas and the development of ''other marketable products''.
N/A	226.3 (New)	The final rule sets forth the authority of Bureau of Indian Affairs (''BIA'') to issue certain notices and orders after consultation with the OMC.
N/A	226.4 (New)	The final rule enumerates the responsibilities and authority of the Superintendent with respect to management and administration of the Osage mineral estate.
226.2	226.5	The final rule breaks the prior regulation into subparts and removes references to oil and gas in paragraphs (b) and (d), extends the time for a successful bidder to deposit his/her payment, requires that payment be made in a specified form other than cash; increases the filing fee for submitting a completed lease form; enumerates the circumstances in which a portion of the bonus bid will be forfeited; requires that the Superintendent post legal descriptions within 30 days of a lease sale; and authorizes the OMC to request comparable lease sales data from the Superintendent.
226.3	226.6	The final rule increases the filing fee, adds requirements regarding lessee's responsibility for plugging and abandoning wells upon surrender, and deletes the reference to allowing surrender of separate horizons.
226.4	226.7	The final rule amends the provision to allow the Superintendent to specify the manner and method of payments due under a lease or regulation.
226.5	226.8	No substantive change from current rule.
226.6	226.9	The final rule sets forth each bonding requirement in its own paragraph to improve readability, it adds personal bonds to surety bonds as acceptable bonding methods, it sets forth the requirements for personal and surety bonds and changes the bonding amount from a per lease-area bond to a $5,000 per well bond for up to 25 wells. The final rule also adds back in nationwide bonding, which was not in the proposed rule.
226.6(d)	226.10	The final rule moves the provision allowing the Superintendent to increase the amount of a required bond to its own section and amends the previous provision under which the Superintendent can increase the amount of a bond.
N/A	226.11 (New)	The final rule sets forth the circumstances under which the Superintendent must release a bond.
226.7	226.12	No substantive change from current rule.
226.8	226.13	No substantive change from current rule.
226.9	226.14	The final rule sets forth each current requirement in its own paragraph to improve readability. It also increases rental rates, clarifies the lessee's responsibility for diligent development, adds a new provision allowing the Osage Minerals Council to request a determination as to the diligent development of a lease and new procedures for the automatic termination of a lease for failure to diligently develop.
N/A	226.15 (New)	The final rule sets forth lessee's new obligations to protect land from drainage of its oil or gas content by wells outside the lease
N/A	226.16 (New)	The final rule specifies the Superintendent's new remedies for requiring protective action once drainage has occurred.
226.10	226.17	No substantive change from current rule.
226.11	(See below)	The final rule divides the current section on royalties into several new sections to improve readability, as shown below.
226.11(a)	226.18	The final rule clarifies that royalty may be taken in-kind. It also amends the royalty rate calculation for oil, subject to a price adjustment for gravity.
N/A	226.19 (new)	The final rule sets forth how the gravity adjustment is calculated.
226.11(b)	226.20	The final rule amends the royalty rate calculation for gas and specifies how gross proceeds are calculated; allows the Superintendent to direct that gross proceeds be calculated in an alternative manner where reasonable cost of processing cannot be obtained; and adds a minimum royalty provision.
N/A	226.21 (new)	The final rule provides that royalty must be paid for any oil and gas avoidably lost and allows the Superintendent to determine the volume and quality of the lost oil and gas.

TABLE 1—Continued

Current 25 CFR section	Final rule section	Final rule change
226.11(c)	226.22	The final rule amends the date for payment of royalties and adds provision for adjusting the minimum royalty.
226.11(e)	226.23 (New)	The final rule sets forth the minimum royalty due for ''other marketable products'' and clarifies that it is in addition to any royalty that may be due on oil or gas.
226.12	226.24	The final rule amends the reference to royalty payment to ensure that the federal government purchases oil consistent with the new requirements.
226.13(a)	226.25	The final rule requires lessees to provide a written agreement when purchaser is the party responsible for payment; provides procedure for making royalty payments and late payments; describes how royalty payments are made; and deletes the provision allowing the Osage Minerals Council to waive late charges with approval of the Superintendent.
226.13(b), (c)	226.26	The final rule sets forth those reports that lessees must submit to the Superintendent and further specifies the format and content of those reports. The final rule also adds a requirement that the Osage Minerals Council be copied on all such reports, as well as establishing the date that the monthly reports are due.
226.14	226.27	The final rule sets forth each current requirement for division orders in its own paragraph to improve readability. It also extends the due date in paragraph (b) for submitting the reporting statement for oil and gas sold should the due date fall on a weekend or holiday.
226.15	(See below)	The final rule divides the current section on lease unitizations and assignments into several new sections to improve readability, as shown below.
226.15(a)	226.28	No substantive change from current rule.
226.15(b)	226.29	The final rule sets forth each current requirement in its own paragraph to improve readability. It also adds provisions relating to the responsibilities and liabilities of assignors and assignees and deletes the provisions that allowed for the assignment of separate lease horizons.
226.15(c)	226.30	No substantive change from current rule.
226.15(d)	226.31	No substantive change from current rule.
226.15(e)	226.32	No substantive change from current rule.
N/A	226.33 (New)	Sets forth the general requirements governing leasing operations.
226.16	226.34	The final rule sets forth each current requirement in its own paragraph to improve readability and adds specific reference to the existing requirement that the Superintendent comply with the National Environmental Policy Act and the National Historic Preservation Act where applicable.
226.17	226.35	No substantive change from current rule.
226.18	226.36	The final rule reformats this section to improve readability. It also adds requirements for notice to surface owners before lessees conduct certain activities and eliminates any difference in notice based on the surface owner's residence status as within or outside Osage County.
226.19(a)	226.37	The final rule sets forth in its own paragraph each current aspect of a lessee's rights and responsibilities in using the surface of the land to improve readability. It also adds a provision requiring notification to the lessee and surface owner before the Superintendent sets the routing of pipelines, electric lines, etc.
226.19(b), (c)	226.38	The final rule sets forth each current requirement with respect to commencement money into its own paragraph to improve readability. It also increases the amount of commencement money the lessee must pay the surface owner.
226.19(d)	226.39	The final rule increases per tank siting fees and provides for arbitration to determine fees to be paid for tanks occupying more than 2500 sq. feet if the parties are unable to agree.
226.20	226.40	No substantive change from current rule.
226.21	226.41	No substantive change from current rule.
N/A	226.42 (New)	The final rule sets forth additional obligations with respect to lessee's obligation for production and marketability.
N/A	226.43 (New)	The final rule requires documentation for transportation of oil, gas or other marketable product to enable the Superintendent to inspect and confirm proper transportation.
226.22	226.44	The final rule sets forth each current requirement in its own paragraph to improve its readability. It also adds provisions in paragraph (e) clarifying that pits or tanks used for collecting deleterious fluids must have fencing and be removed and reclaimed immediately after operations.
N/A	226.45 (New)	The final rule sets forth a lessee's specific environmental responsibilities and obligations while conducting operations.
N/A	226.46 (New)	The final rule requires certain safety standards and equipment for lessee operations, as well as compliance with the National Electric Code.
226.23	226.47	The final rule adds a provision requiring the Superintendent to notify or attempt to notify surface owners before decisions are made with respect to easements of leased premises.
226.24	226.48	No substantive change from current rule.
226.25	226.49	The final rule has reformatted this section on the responsibility of other types of lessees when they are not the lessee drilling in order to improve its readability. It also deletes prior/current requirements that wells be plugged if no apportionment agreement is accepted, making the Superintendent's decision on apportionment final.
226.26	226.50	No substantive change from current rule.
226.27	226.51	The final rule adds general requirement that gas for tribal use must be odorized and treated to ensure public safety.

TABLE 1—Continued

Current 25 CFR section	Final rule section	Final rule change
226.28	226.52	The final rule provides new standards for determining whether a well may be permanently abandoned on a showing that it is incapable of future profitable production, as opposed to being capable of producing in paying quantities.
226.29	226.53	The final rule has reformatted this section to improve its readability. In paragraph (a), it also eliminates an exception for termination of a lease, other than for cause. In paragraph (c), it also adds a requirement that a Superintendent's orders for plugging a well must be in writing, as well as eliminating the fee for submitting an application to plug a well.
226.30	226.54	The final rule divides paragraph (b) into two provisions, thereby adding a paragraph (c). It also adds paragraph (d), which requires that lessees maintain records for a period of 6 years, unless notified to maintain certain records for a longer period.
226.31	226.55	The final rule deletes the provision applying when several parties own a lease jointly allowing the designation of a representative be made by the party in charge of operations when several parties own a lease jointly, to requiring that all of the parties must jointly designate the representative.
226.32	226.56	The final rule reformats this section to improve its readability.
226.33	226.57	No substantive change from current rule.
226.34	226.58	The final rule adds a requirement that wells and tank batteries be marked with lessee's name.
226.35	226.59	No substantive change from current rule.
226.36	226.60	The final rule adds paragraphs (b)–(f), which require safety precautions for drilling wells generally, drilling vertical wells, maintaining and controlling high pressure or loss of circulation in wells, protecting fresh water and other minerals and ensuring safety and protection when hydrogen sulfide gas is present at certain levels by adopting BLM On-Shore Oil and Gas Order 6.
226.37	226.61	No substantive change from current rule.
226.38	226.62	The final rule adds paragraphs (b)–(d), which specify requirements for measuring, calibrating and adjusting meters, including notice to and follow-up by the Superintendent; require notification to the Superintendent when an oil tank is ready for removal or for witnessing gaugings, and provide that repeated failures to comply with the new provisions subject the lessee to lease termination after consultation with the Osage Minerals Council.
226.39	226.63	The final rule adds paragraphs requiring measurement of gas to be done in accordance with BLM Onshore Oil and Gas Order 5, specify a lessee's obligations for calibrating, inspecting and adjusting meters, including notification and inspection by the Superintendent, and provide that repeated failures to comply will subject the lease to termination after consultation with the Osage Minerals Council.
226.40	226.64	No substantive change from current rule.
N/A	226.65 (New)	The final rule sets forth specific safety and other requirements to ensure proper site security.
226.41	226.66	The final rule adds requirements to ensure that incidents are reported in a timely manner, that notification is provided when environmental or other types of accidents occur, specifying who must be notified, including impacted surface owners.
226.42	226.67	The final rule allows lease provisions for different fines and penalties, and it deletes the provision allowing the Osage Minerals Council to waive late charges.
226.43	226.68	No substantive change from current rule.
226.44	226.69	No substantive change from current rule.
226.45	226.70	No substantive change from current rule.
226.46	226.71	The final rule adds information concerning approval of OMB and the assigned OMB Control Number.

Table 2 below sets forth the substantive changes made in the final rule to the text of the proposed rule as published August 28, 2013. The basis for each of these changes is discussed in the next section of this preamble.

TABLE 2

Section	Final rule's change to proposed rule
226.1	The final rule adds a definition for ''surface owner'', references ''other marketable product'' in the definition of ''lease'' and ''Osage Minerals Council'' and amends the definition of ''waste of oil or gas or other marketable product.''
226.2	The final rule adds a reference to other marketable products.
226.3	The final rule deletes the reference in 226.3(a) to the Administrative Procedure Act and replaces it with ''applicable law and regulations'' and also adds the phrase ''where appropriate'' after the reference to consultation with the Osage Minerals Council because not all of the items listed in the provision are subject to the APA or the Department's Consultation Policy.
226.4(a)(4)	The final rule deletes reference to ''other'' as unnecessary.
226.4(a)(10)	The final rule adds the phrase ''unless otherwise approved by the Superintendent'' at the end.
226.4(b)	The final rule removes provisions that allowed the Superintendent to issue oral orders.
226.4(c)	The final rule adds a requirement that any history of noncompliance be documented.
226.5(a)(4) (ii)	The final rule removes the phrase ''twenty five percent of the bonus bid'' at the beginning of the provision and adds a reference to paragraph 5 in subparagraph (c).

TABLE 2—Continued

Section	Final rule's change to proposed rule
226.5(b)	Deletes references to oil and gas as unnecessary.
226.5(d)	Language added to end of the provision to clarify that the environmental analyses will be completed in accordance with existing Bureau procedures.
226.5(f)	Amends the reference to corporation
226.6	The final rule deletes the reference to ''surrender of a separate horizon'' in (b)(4). It also adds a paragraph (c) that requires the Superintendent to determine that wells have been plugged and abandoned or that legal liability therefore has been otherwise assumed before approving surrender or partial surrender of a lease.
226.9	The final rule adds paragraph (f), which allows for a bond for nationwide coverage in lieu of a surety or personal bond.
226.11	Paragraph (c) was deleted.
226.14	The final rule changed time period for non-production of a lease from 90 days to 120 days in paragraph (e) and the deadline for requesting a temporary suspension of operations to 20 days prior to the expiration of the 120-day period, rather than the 45th day in which the lease has not produced. The final rule also deletes waiver language and adds a requirement of good cause in order for the Superintendent to extend a temporary extension.
226.15	In paragraph (b), the final rule replaces the reference to ''in paying quantities'' with ''for a reasonable profit''. It also adds that assignors are liable for drainage upon determination of the Superintendent
226.18	Paragraph (a) of the final rule was amended to allow royalty to be taken in kind. In paragraph (b) the provision regarding time for payment was deleted, and in subparagraph (b)(2) the reference to NYMEX was moved to subparagraph (b)(1).
226.20	In paragraph (b) of the final rule, the calculation for determining gross proceeds was amended and a method for determining the heating value of gas was added. In paragraph (c) the reference to 1206.173 was replaced with a reference to 1206.180(a)–(b).
226.20	The final rule defines how the minimum royalty is to be calculated, and it deletes paragraph (d).
226.25	In paragraph (a), the final rule adds a provision requiring that the Superintendent be notified if the purchaser is the responsible party for making payment. In paragraph (b), it deletes the provision stating ''unless otherwise provided by the Osage Minerals Council and approved by the Superintendent,'' in an effort to standardize and ensure prompt, consistent payments. Paragraph (c) was revised to reference back to paragraph (a) and to delete language allowing other rates to be set and the waiver of late fees.
226.27	In paragraph (a) at the end, the words ''his lease'' are replaced with ''Section 226.25''. In paragraph (b), the provision allowing the Superintendent to authorize extensions was deleted.
226.29	The final rule deletes the provision allowing assignment of separate horizons. It also adds paragraphs (a)(i) and (a)(ii), which specify the liability and obligations of both the assignor and assignee when a lease is assigned.
226.34	The final rule explicitly requires compliance with NEPA and NHPA.
226.36	In paragraph (b), the final rule requires the Superintendent to notify or attempt to notify both the surface owner and the lessee of their opportunity to meet and submit information before the Superintendent issues a decision.
226.37	The final rule adds a requirement that the Superintendent to notify or attempt to notify both the surface owner and lessee before setting routes.
226.40(a)	The final rule deletes the last sentences referencing a court of competent jurisdiction and replaces it with an express reference to 226.41, which provides for the same relief after compliance with the dispute resolution provisions.
226.44	The final rule adds requirements for pits or tanks containing deleterious fluids in order to protect the environment.
226.46	The final rule adds a requirement for compliance with the National Electric Code.
226.47	The final rule adds a requirement for the Superintendent to notify or attempt to notify both surface owner and lessee before easements are granted.
226.52	The final rule amends the provision allowing wells to be permanently abandoned if they are no longer capable of producing in paying quantities rather than for lack of further profitable production.
226.53	In paragraph (a), the final rule deletes the provision that creates an exception for termination of a lease other than for cause, and paragraph (c) adds a requirement that the Superintendent's orders for plugging a well be in writing.
226.55(b)	In the final rule, the provision allowing the designation of the parties' representative to be made by the ''party in charge of operations'' was deleted and changed to require that all of the parties must jointly designate a representative.
226.62	The final rule in paragraph (c) deletes the provision regarding penalties and the adjustment provision for penalties.
226.66	The final rule clarifies that accidents include environmental and other types of accidents. It also requires the reporting of thefts within one business day, rather than ''promptly'' and requires lessees to notify, or attempt to notify, the surface owner or agent in writing.
Subpart F (226.67–68)	The final rule reverts to the language in the current/prior version of the regulation and deletes the Committee's recommendations for penalties for violations of lease terms, instead adding a provision that the lease can specify alternative fines and penalties. In 226.68(j) the provision regarding criminal penalties was deleted as unnecessary because criminal laws are applicable irrespective of their inclusion or reference within these regulations.

IV. Explanation of Changes Made in Response to Departmental Review

In drafting the final rule, the Department made revisions to the proposed rule based on its own internal review, in addition to its review and analysis of the public comments. This section sets forth those the changes made as a result of that internal review. In Section 226.1, the Department added references to ''other marketable product'' in the definitions of ''lease'' and ''Osage Mineral Council'' in order to fully incorporate the addition of the term ''other marketable product'' into

the regulations. Without these changes, the Department was concerned that ''other marketable product'' would not have been fully and consistently referenced as part of the Osage minerals estate, which was the original intent of the Negotiated Rulemaking Committee. For the same reason, references to ''other marketable product'' were added to Section 226.2 and the words ''oil and gas'' were deleted from 226.5(b) and (d), so that the provision references all leases generally.

The Department revised the definition of ''waste of oil or gas or other marketable product'' to clarify that waste only occurs after the Superintendent makes a specific finding. The Department was concerned that without that change, the regulations would suggest that any production without the advance approval of the Superintendent would be considered waste, resulting in unnecessary administrative burdens.

In 226.3, the Department qualified that that consultation with the Osage Minerals Council is required where appropriate and notes that consultation must be conducted in accordance with the Department's Tribal Consultation Policy where applicable. Similarly, the notice and comment requirements of the Administrative Procedure Act (APA) do not apply to each of the proposed actions and the reference to requiring adherence to the APA has been removed to avoid any presumption that notwithstanding the limitations of the APA, it automatically applies. Rather, it should be noted that the APA only applies where required by law. For example, notices to lessees (NTLs) are interpretive rules that are not subject to the notice and comment requirements of the APA. *See e.g., Perez* v. *Mortgage Bankers Assoc.,* No. 13–1041, ____ U.S. ____ (March 9, 2015).

The Department deleted the word ''other'' from 226.4(a)(4) because it was confusing. The Superintendent is responsible for approving and monitoring all lease proposals, not ''other'' lease proposals.

The phrase ''unless otherwise approved by the Superintendent'' was added to the end of Section 226.4(a)(10) because as drafted it did not allow the Superintendent to approve actions that might have adverse effects on other mineral resources. However, there might be instances where the Osage Minerals Council wants to allow certain mining to have adverse effects on other lesser mineral resources, and the Department determined that the Superintendent must retain discretion to approve those actions depending on the circumstances.

In Section 226.5(a)(4)(ii), the phrase ''twenty five percent of the bonus bid'' at the beginning of the provision was deleted because it was inconsistent with subsection (a)(3). That subsection requires that a minimum deposit of twenty five percent of the cash bonus be offered, but it is possible for additional amounts to be deposited, and the intent of Section 226.5(a)(4)(ii) is for all of the deposit to be forfeited under certain circumstances. Section 226.5(a)(4)(ii)(C) was amended to add a reference to subsection 5 for clarification purposes. To address confusion within Osage County regarding the applicability of environmental laws, Section 226.5(d) was amended to clarify that the Agency must comply with applicable laws, including the National Environmental Policy Act (NEPA), before issuing leases and will do so by following applicable BIA regulations. Section 226.5(f) was amended to delete the reference to ownership of stock and instead reference an employee who acquires an interest in a corporation or business entity holding a lease, because one cannot acquire an ''interest in a lease'' by merely owning stock in a company.

In Section 226.6(b)(4), the Department deleted the reference to surrender of a separate horizon because the Osage Agency does not lease or sublease by separate horizons, in light of the administrative burdens those arrangements have caused in the past. Furthermore, allowing surrender of separate horizons causes similar problems and is not permitted elsewhere on other Indian and Federal lands.

The Department deleted subsection (c) in 226.11 because it was repetitive of the prior paragraph and the release language was moved to the beginning for clarification. In 226.14(c), the 90 day timeline for a determination on diligent production was deleted because it is considered overly burdensome, administratively. Instead, a provision was added that allows the Superintendent to require the lessee and Osage Minerals Council to submit additional information so that he/she can make an informed determination.

In Section 226.18, the Department amended subsection (a) to allow royalty to be taken in kind so that the provision is consistent with subsection (b). In 226.18(b), the provision regarding time for payment was deleted because timing of payment is governed by Section 226.25, and in subparagraph (b)(2) the provision relating to the availability of the average NYMEX daily price was moved to subparagraph (b)(1) to correct an error in the proposed rule.

In Section 226.22, the Department revised how minimum royalty is calculated because, as set out in the proposed rule, the provision confuses separate lease concepts. Minimum royalty is a separate lease term and not a subset of royalty, and Section 226.22 is not about underpayment of minimum royalty, but about the occurrence of a circumstance that triggers the obligation to pay minimum royalty.

In Section 226.25, the Department added a requirement to subsection (a) that requires lessees to provide a written agreement if the purchaser has agreed to be the responsible party for making payments. This change is intended to reduce the administrative burden placed on the Superintendent when having to determine the responsible party. Also, a cross-reference to subsection (a) was added to subsection (c) for consistency. In addition, the phrase ''unless otherwise provided by the Osage Minerals Council and approved by the Superintendent'' was deleted to standardize and ensure prompt, consistent payments. For the same reason, and to aid in the administrative implementation of the provision, the Department deleted the provisions in subsection (c), allowing the Superintendent to set other rates for late fees and allowing the Osage Minerals Council to waive late fees, with approval by the Superintendent.

In Section 226.27(a), the Department added that royalty payments on division orders or contracts must be made in accordance with Section 226.25, since it is Section 226.25 that governs payments of royalties and all leases are subject to the regulations. And, in subsection 226.27(b,) the provision allowing the Superintendent to authorize extensions was deleted in order to reduce the considerable administrative burden on the Superintendent of having to consider requests for extensions on a case by case basis.

The Department added provisions in 226.29 to clarify liability for wells and related facilities once a lease is assigned. The Department found that there has been a concern both by surface owners during the negotiated rulemaking and the Office of Inspector General with respect to the abandonment of wells within Osage County. The new provisions regarding liability will provide additional protections for enforcement after a lease is assigned and provide greater clarity and transparency regarding lessee obligations.

In 226.34, the Department added a new provision making clear that NEPA and the National Historic Preservation Act (NHPA) continue to apply within

Osage County. These are not new legal requirements and do not create new responsibilities over what is already required. However, the Department determined it was necessary to expressly recognize these responsibilities in the Rule given confusion within Osage County with respect to the Agency's and lessees' duties under NEPA and NHPA. The Department also added an express requirement that, where applicable, requires the lessee to submit certain information to aid the Agency in meeting its obligations under NEPA and NHPA.

The Department amended Section 226.52 to allow for the permanent abandonment of a well upon a showing that the well is no longer producing in paying quantities, rather than a showing of its lack of further profitable production of oil, because the standard for showing that a well is no longer producing in paying quantities is more objective, less administratively burdensome to determine, and consistent with the standard applied with respect to Indian leases outside of Osage County.

V. Comments on the Proposed Rule and Responses

A. Overview/General

Several commenters stated that it was not necessary to change the regulations and that the proposed changes to the regulations would make oil and gas operations in Osage County more cumbersome and costly to the industry because the burden is being put entirely on the lessees.

During the negotiated rulemaking it was explained that the United States was sued by the Osage for breach of trust with respect to management and administration of the Osage minerals estate. The United States settled with the Osage for $380 million and, as part of the settlement, agreed to engage in a negotiated rulemaking to revise the regulations governing Osage in order to improve the management and administration of the minerals estate. Further, not all of the regulations are being revised. To the extent that some of the regulations are revised, the Department acknowledges that there may be some additional upfront costs to ensure compliance with the regulations. However, the regulations are necessary to improve management and administration of the Osage mineral estate. Overall, given the Osage tribal trust litigation and resulting settlement, the Department had to balance the need to ensure that the regulations fulfill the United States trust responsibility to the Osage with some potential increased costs to industry. Moreover, this Rule brings Osage closer in line to how oil and gas operations are regulated on other Indian and Federal lands and reflects the availability of new technology and improved industry standards since the regulations were initially promulgated.

Some commenters stated that the proposed regulations should not be approved because the Bureau is already short-staffed and has no budgetary resources to handle the additional work and explained that the proposed changes will threaten oil lessees and have negative impacts on Osage headright owners quarterly payments.

These comments do not relate to the rule but to internal agency operations that are outside the scope of the rulemaking. However, the Osage Agency developed a staffing plan in 2013 to address concerns regarding lease enforcement and compliance issues. The Osage Agency requested additional funding as part of its Fiscal Year (FY) 2014 and 2015 budgets, which will be incorporated into its base funding for the FY 2016 budget cycle. The Osage Agency has also created 13 additional positions for inspections, enforcement and lease compliance, lease management and oil and gas accounting. While compliance with the regulations may result in some additional upfront costs to both industry and the Bureau, the majority of the new regulations address shortfalls that resulted in the Osage's lawsuit against the United States for breach of trust related to mismanagement of the Osage minerals estate, including royalty collection, auditing, accounting, record keeping, inspections and lease compliance. There was also no evidence presented to show that finalization of the rule would negatively impact royalty payments, rather the rule has increased protections for ensuring royalty collection and provisions to ensure that lessees are calculating royalty in a manner that minimizes third party manipulation.

Some commenters suggested that management and enforcement of regulations governing surface use and lease violations is key.

These comments relate to agency operations and implementation and do not relate to any particular regulation. The Department agrees that management and enforcement of the regulations is key and has worked over the last few years to address staffing concerns and budgetary limitations at the Osage Agency.

Numerous commenters suggested that the Department restart the negotiated rulemaking process and include all affected parties as part of the Negotiated Rulemaking Committee. Some of these commenters suggested that the actual process of the rulemaking normally takes 2 years to ensure that all interested parties may be properly notified of the proposed rule changes, be given adequate time to comment and understand how new regulations will impact private citizens. Whereas, commenters stated that in this circumstance the rule making was pushed through in a little over seven months resulting in a lack of due process and a one-sided nature of the proposed rules.

The Department does not believe it is necessary to restart the negotiated rulemaking process. Formation of the Negotiated Rulemaking Committee was first announced in the **Federal Register** on June 18, 2012, and the final Committee was announced on July 31, 2012. All meetings of the Committee were published in the **Federal Register** at least thirty (30) days in advance, as well as, posted at the Osage Agency and the Osage Minerals Council offices. Throughout the process, the Committee provided extensive opportunity for public comment during meetings and also welcomed written comment between meetings. Issues raised during that process included, but were not limited to, the benchmark index, bonding fees and requirements, and commencement fees. Other matters were also discussed across multiple meetings, recorded in meeting summaries, and proposals to the regulations were adjusted where the Committee determined it appropriate, in multiple drafts of the regulations during that process. The administrative record shows, through the meeting summaries from the Committee meetings, that the Committee not only provided substantial time for public comment, but the Committee also engaged extensively with commenters in dialogue. Committee members asked questions and explored options with the commenter, and sought to reach an accommodation or revision where appropriate. Overall, the Committee provided 21 public comment sessions totaling some 18.25 hours of public comment during the eight meetings over its August 2012 to April 2013 process. On April 2, 2013, the Committee met for its final meeting and concurrence on a proposed package of revised regulations was reached between the Federal caucus and Osage caucus.

The Department received numerous form letters generally opposing the regulations and suggesting that making the lessees within Osage County comply with Bureau of Land Management (BLM)

regulations will make Osage lose its appeal as a one-stop shop and asserting that the regulations will lengthen the drilling permitting process, diminish the Osage minerals estate and impact income generated.

The Department acknowledges that some of the new provisions in the regulations are modeled after existing Federal regulations governing oil and gas on other Indian and Federal lands governed by BLM. However, under the rule, BLM is not delegated with the responsibility for oil and gas operations within Osage County. Rather, BIA has that responsibility. Additionally, it is relevant to note that some commenters noted their disagreement with the form letters submitted opposing the proposed regulations.

At least one commenter requested that the Department amend the rules so that they properly recognize the State of Oklahoma's primacy and exclusive role in environmental regulation of oil and gas exploration and production activities in Osage County as well as the State's right to regulate the waters within its borders. The commenter asserted that the State is better equipped to design, administer and enforce laws and regulations related to oil and gas development.

The United States holds the Osage mineral estate in trust pursuant to the Act of June 28, 1906 § 3, 34 Stat. 539, 543–44, amended in relevant part by Act of March 2, 1929, 45 Stat. 1478 (extending restricted trust status of mineral estate to 1959); Act of June 24, 1938, 52 Stat. 1034 (extending restricted trust status of mineral estate to 1983); Act of Oct. 21, 1978, 92 Stat. 1660 (extending restricted trust status of mineral estate in perpetuity). Thus, the United States, through the Department, has a non-delegable fiduciary obligation to manage the mineral estate for the benefit of the Osage. It is relevant to note that one commenter disputed the assertion that the State is better equipped to address oil and gas leasing in Osage County and explains that the Osage Nation and the United States have more experience and knowledge in administering and enforcing oil and gas leases in Osage County. The first lease in Osage County was developed in 1896, eleven years before creation of the State, and the United States has regulated and managed the Osage mineral estate since 1896.

At least one commenter objected to references to ''reservation lands'' in Osage County and asserts that the reservation was disestablished in Osage Nation v. *Irby, 597 F.3d 1117 (10th Cir 2010).*

This is a legal issue outside the scope of the rulemaking. The Department does not need to address the impacts, if any, of the *Irby* case in order to revise these regulations. The United States holds the Osage mineral estate in trust and the Secretary has authority under the Act of June 28, 1906, § 3, 34 Stat. 539, as amended, to promulgate regulations to manage and administer the mineral estate, and this Rule is being promulgated pursuant to that authority.

At least one commenter requests that the Department and the Osage Minerals Council enter into a cooperative agreement with the State of Oklahoma to delegate responsibility for management and administration of oil and gas operations to the State.

This comment does not relate to the revised regulations and is outside the scope of the rulemaking process. It is relevant to note that one commenter disagreed with the request for a cooperative agreement that gives the State administrative jurisdiction in Osage County and cites, 25 U.S.C. 1a & 9, noting that Congress granted authority over Indian Affairs to the President. This commenter also cited 25 CFR 1.4(a), for the proposition that the President, acting on his authority, has specifically excluded States from exercising jurisdiction over Indian property, including Indian water rights; and further cited legal precedent for the proposition that the Department cannot delegate authority to a State without tribal consent and the Osage Nation has not consented to such jurisdiction or delegation. *See Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation* v. *Bd. Of Oil and Gas Conservation of the State of Montana,* 792 F.2d 782 (9th Cir. 1986).

At least one commenter suggested that the rule should reflect the separate and unique relationships (a) between the Department of the Interior, and the Osage headright holders, Osage Mineral Estate, and the Osage Minerals Council under the 1906 Act; and (b) between the Department and the Osage Nation under the 2004 Act.

This comment does not relate to the revised regulations and is outside the scope of the rulemaking process. The United States holds the Osage mineral estate in trust under the Act of June 28, 1906, § 3, 34 Stat. 539, as amended, and the revised regulations only pertain to the United States' responsibilities to the Osage as defined in that Act. The 2004 Act, Public Law 108–431, 118 Stat. 2609 (Dec. 3, 2004) speaks to tribal membership issues for purposes other than those defined by the 1906 Act.

At least one commenter suggested that the proposed rule likely violates Executive Orders 12866 and 13175 because it adversely affects the Nation and its members. The proposed rule also has tribal implications and requires the Bureau to incur new costs that require consultation with the Nation. There is no evidence that the Bureau has consulted with the Nation.

Pursuant to the Osage Tribal Trust Settlement, the Bureau is required to consult twice annually with the Osage Minerals Council, the duly elected governing body within the Osage Nation that oversees the Osage mineral estate. Throughout the Negotiated Rulemaking Process, the Bureau held its required consultations to discuss the rulemaking process and other issues with the Osage Minerals Council. During those meetings a tribal representative of the Nation was invited and present. Additionally, the Negotiated Rulemaking Committee was comprised of duly appointed members of the Osage Minerals Council.

At least one commenter requested that the Bureau make more information available to surface owners and the public with respect to operations within Osage County, including but not limited to freshwater aquifer maps, well location maps, mineral lease-holder maps and contact information, and lease inspection reports. The commenter suggested that lessees should be required to report the amount and type of chemicals used in any hydraulic fracturing operation to www.fracfocus.org.

These comments are not within the scope of this rulemaking. However, as an operational matter, the Bureau is exploring opportunities to make oil and gas operations more transparent by possibly developing a Web site that would contain pertinent information, consistent with the Freedom of Information Act requirements, with regards to oil and gas activities within the Osage County.

At least one commenter suggested that the Department commit to regularly publish monthly statistical data, provide headright holders with detailed statements regarding operational and royalty data, provide all relevant data to the Minerals Council, and develop an accessible and auditable database.

This comment is outside the scope of the rulemaking. The Osage Agency regularly provides detailed information regarding the Osage mineral estate to the Osage Minerals Council on a regular basis and, consistent with the Freedom of Information Act, headright holders may request information relating to the Osage mineral estate from the Osage Agency.

At least one commenter suggested that the mineral estate be independently audited under the auspices of the Department's Office of Inspector General and that the audit results be provided to headright holders.

This comment is outside the scope of the rulemaking process. The Department notes, however, that the Office of Inspector General (OIG) issued a publicly available report on the Osage Agency in October 2014 (No, CR–EV–BIA–0002–2013). That report states that the Osage Agency needs to institute substantial changes to improve the management and administration of the Osage mineral estate, and further provides that many of the OIG's proposed recommendations and concerns will be addressed upon finalization of this rule.

Some commenters requested that STRONGER should be invited to do an audit of the Osage Agency and provide recommendations for transparency, accountability and enforcement, as well as to strengthen regulations.

This comment is outside the scope of the rulemaking. Moreover, STRONGER is an organization that focuses on State, not Federal, reviews of oil and gas regulations and best management practices. As noted in response to other comments, the Department's OIG has recently performed an audit of the Osage Agency and has issued a public report providing specific recommendations to improve management and administration of the Osage mineral estate. That report notes that many of the areas in which improvement is needed will be addressed upon finalization of this rule, and other issues are being addressed operationally. In addition, the Negotiated Rulemaking Committee was comprised of a team of experts in all fields of Federal oil and gas operations (BLM, Office of Natural Resource Revenue (ONRR), BIA, and the Office of Indian Energy and Economic Development) to evaluate Osage Agency operations and to make recommendations for improving the management and administration of the Osage mineral estate.

At least one commenter suggested that the Department of the Interior provide for full end-to-end accounting to headright holders of withdrawals to the Osage mineral estate, royalty payments made, expenses withdrawn, interest earned and quarterly disbursements to headright holders.

This comment is outside of the scope of the rulemaking; however, the Department provides the Osage Minerals Council with a periodic statement, at least on a quarterly basis, that provides information regarding the source, type, and status of the funds in the mineral estate account, the beginning and ending balance for the period reported, all gains and losses in the account and all receipts and disbursements for the account.

At least one commenter suggested that in any provision where the regulations require consultation with the Osage Minerals Council, such references should be replaced with ''approval by the Osage Minerals Council.''

The Secretary, not the Osage Minerals Council, has been delegated the authority to manage the Osage mineral estate by Congress. Thus, while the Bureau is willing to consult with the Osage Minerals Council on matters relating to the Osage mineral estate, it must retain its ability to take corrective actions against lessees that are in violation of the regulations, including termination of the lease after consultation with the Osage Minerals Council (Sections 226.25(c), 226.62(b)–(c), 226.63(c), 226.67, and 226.70). In addition, the Department must retain the discretion to make changes to the regulations in the future.

At least one commenter has requested that the reference to ''for the benefit of the Osage'' needs to be changed to ''for the benefit of the Osage shareholder/headright owner.''

The phrase commented on is in the Executive Summary of the Rule that was proposed in the **Federal Register** on August 28, 2013, and is not a comment relating to the rule.

B. Comments Related to Section 226.1

At least one commenter suggested that the definition of ''headright holders'' be amended to reflect the distinction that Congress has made between (a) the Osage Mineral Estate and its headright holders and (b) the Osage Nation.

The rule does not define ''headright holders'' and the Department does not believe it is necessary to define this term because it is defined in the 1906 Act. Moreover, the distinction made by the commenter is not relevant to the rule. The rule only relates to the Osage mineral estate as defined in the 1906 Act and not to other purposes.

At least one commenter suggested that the definition of the ''Osage Minerals Council'' be amended to reflect the Council's role as the elected representative of the Osage headright holders, composed of headright holders, and vested with authority to enter leases and take other actions related to the mineral estate.

The Department believes the current definition of Osage Minerals Council in the Rule is consistent with this comment and reflects that the Osage Minerals Council is a duly elected governing body within the Osage Nation.

At least one commenter sought clarification on the definition of ''Other Marketable Product'' because it is unclear whether language ''for which there is a market'' refers to a local market or any national or international market. For example, simply because carbon-dioxide may be selling in Montana, does not mean there is a willing buyer or market for an Osage lessee.

The Department does not believe that there is a need to further expand the definition. ''[F]or which there is a market'' was intended to be left sufficiently broad to mean any market which there is a demand that makes it economically feasible to develop the non-hydrocarbon.

At least one commenter suggested that the definition of ''royalty'' be amended to reflect the many diverse types of payments made by lessees included in the draft regulations, save for tank fees and fees to arbiters.

Royalty is not defined in the definitions section of the rule, but is defined by the amount a lessee must pay on the amount of oil, gas, or other marketable product sold in accordance with Sections 226.18 through 226.23. Other fees paid under the regulations are for administrative costs or expenses.

At least one commenter suggested that the definition of ''Superintendent'' be amended to reflect the ability of the Superintendent to delegate authority only to employees of the Bureau and enumerate an extensive set of duties and responsibilities.

The Department does not believe that this level of specificity is required or necessary. The 1906 Act delegated to the Secretary of the Interior the responsibility to manage and administer the Osage mineral estate and such delegations are governed by applicable authority, including the Departmental Manual. If the Secretary delegates a specific duty to the Superintendent, the Superintendent may only further delegate that responsibility in accordance with the Departmental Manual. Further, to the extent that the Secretary delegates certain responsibilities to the Superintendent, those delegations may be changed by the Secretary, and this authority is expressly retained in the definition of ''Superintendent'' in Section 226.1.

At least one commenter suggested that the provision allowing the

Superintendent to delegate her authority needs to be clarified; it could be read to allow the Superintendent to delegate to the Osage Nation, which includes non-headright owners.

No changes were made in response to this comment. The question of the Superintendent's authority to delegate is not controlled by the regulation but is an independent question of Federal authority. The Superintendent can only make delegations consistent with applicable authorities including Departmental Manuals.

At least one commenter suggested that the term ''surface owner'' be defined in the regulations as ''any person, firm, corporation or other entity that owns the surface of the land on which oil and gas development is proposed or occurs.''

In response to this comment, a definition of ''surface owner'' was added to Section 226.1 to include ''any person or entity that owns a surface estate within Osage County, irrespective of whether the surface estate is held in fee, restricted fee or trust status.''

With respect to the definition of ''waste of oil or gas or other marketable product'' (226.1), one commenter suggested clarification, noting that even using a reasonable and prudent operating standard, subcategory (1) ''a reduction in quantity or quality of product from a reservoir'' may prove so vague and open to interpretation that it will be both unworkable and subject to disagreement whenever such a claim is made.

The definition of ''waste of oil or gas or other marketable product'' must be read in conjunction with Section 226.21, which specifies who makes a determination regarding royalty payments for lost or avoidably wasted materials. Section 226.21 allows the lessee to submit information in support of his/her position that gas was not wasted or avoidably lost before a finding is made. This provision ensures that the Superintendent has all relevant information from the lessee before making a final decision. In addition, during the Negotiated Rulemaking when this provision was discussed by the Committee and the public, it was noted that the Superintendent's decision is subject to appeal under 25 CFR part 2.

At least one commenter noted that references to the ''Osage Nation'' in the rule diminish the rights of the headright owners because the Nation includes non-headright holders. The commenter also stated that the Osage Tribe (under the 1906 Act) is not the same as the Osage Nation today.

The reference to the Osage Nation in the definition of Osage Minerals Council is an accurate reference because the Osage Minerals Council is a duly elected governing body within the larger Osage Nation. Only Osage headright holders are eligible to vote for candidates for the Osage Minerals Council.

C. Comments Related to Section 226.3

At least one commenter stated that the BLM regulations and on-shore oil and gas orders are onerous and costly to comply with and lessees don't know how to navigate them. This commenter suggested that it cost them over $87,400 for a drilling permit in Kay County, Oklahoma, and that following BLM requirements will make the decision to drill more cost-based rather than potential-based.

Section 226.3 allows the Bureau, in consultation with the Osage Minerals Council, to adopt BLM onshore oil and gas orders, notices to lessees or related onshore oil and gas regulations, but does not require adoption. Prior to adoption, the Bureau must comply with the Administrative Procedure Act. This rule does adopt two BLM onshore oil and gas orders that relate to the measurement of gas in Section 226.63(a), and hydrogen sulfide in Section 226.60(f), but neither of these relate to the drilling permit process. Moreover, while Section 226.34 (previously numbered Section 226.16), which relates to drilling permits, was amended to expressly provide that National Environmental Policy Act and the National Historic Preservation Act apply, those statues are already applicable within Osage County. The amendment only makes clear that lessees must submit certain environmental information to assist the agency in complying with those laws. To the extent that the comment could be interpreted to imply that Section 226.60 (previously numbered Section 226.36) is revised to add requirements regarding well safety, those requirements were adopted from the BLM regulations, but do not impact the drilling permit process. It is also relevant to note that the rule does not become effective until 60 days after publication and the Bureau is working on a plan to educate lessees in Osage County regarding the changes to the regulations to ensure compliance and understanding of any new requirements before the rules go into effect.

At least one commenter suggested that all seven of the BLM's current onshore orders be adopted immediately and that future onshore orders be adopted automatically by the Bureau without consultation with the Osage Minerals Council.

The Negotiated Rulemaking Committee reviewed all of the BLM's onshore orders and after much discussion and public comment only recommended adopting Orders 5 and 6. However, the Committee recommended, and the final rule adopts the recommendation, that the Bureau be expressly provided the authority to adopt other onshore oil and gas orders in the future. The requirement that the Bureau consult with the Osage Minerals Council prior to any such future adoption is consistent with Executive Order 13175 on tribal consultation. In addition, the Bureau must comply with the Administrative Procedure Act in adopting any future onshore oil and gas orders.

D. Comments Related to Section 226.4

At least one commenter suggested that in Section 226.4(a)(10), the Superintendent's responsibilities with respect to protection of the environment, public health, and safety need to be expanded and strengthened.

The rule already adequately addresses this comment, however, an additional change was made to Section 224.44(e) to further address this and other comments related to safety and the environment. For example, in addition to Section 226.4(a)(10), the rule has specific protections against hydrogen sulfide gas in Section 226.60(f), which was added during the negotiated rulemaking process to address concerns from the public regarding the existence of hydrogen sulfide within Osage County. Section 226.44 also provides additional requirements with respect to the lessee's obligations for preventing pollution and an additional provision was added for safety, to require fences around pits and tanks and that removal and remediation of tank and pit sites occur immediately after completion of operations. Section 225.45 provides additional requirements with respect to other environmental responsibilities. These are just some of the provisions that ensure lessees take steps to protect the environment and ensure public health and safety.

At least one commenter opposed Section 226.4(b) of the proposed rule because it allows oral orders, which could risk creating additional uncertainty in the supervision of operations and could be misinterpreted and/or unclear. It was suggested that a written order clearly identifying specific violations, necessary corrective actions, and the time for compliance would ensure full compliance and create a record in the event of an enforcement action or surface owner lawsuit.

The Department agrees that written orders are preferable and has removed

all references in the rule allowing oral orders so that it is clear that written orders must be issued.

Some commenters suggested that the Bureau should inspect oil and gas leases at least once annually and that the Bureau should promptly address and more frequently inspect non-compliant leases. It was suggested that there is a general lack of day-to-day oversight and that most ranches have old scars or current pollution issues associated with oil and gas production and saltwater spills. Commenters also suggested posting information regarding inspections like the BLM does because it allows landowners and the public to see when wells are inspected and violations reported.

To the extent that these comments relate to the rule, they are already addressed by the rule. In Section 226.4(c), leases with a history of noncompliance must be reviewed at least once annually. The Bureau has also established a toll-free 24 hour hotline (855) 495–0373 for reporting spills or accidents and a tracking system has been created to ensure that all calls are responded to in a timely manner and other officials are notified as appropriate. The Bureau has also discussed creating a Web site for the Osage Agency where it can post the results of investigations and other information related to oil and gas operation in Osage County. However, this is being done outside the rulemaking and any information posted must be reviewed for compliance with the Freedom of Information Act. Additionally, the Office of Inspector General (OIG) issued a publicly available report on the Osage Agency in October 2014 (No, CR–EV–BIA–0002–2013) that discovered some of the same concerns, but many of the OIG's proposed recommendations and concerns will be addressed upon finalization of this rule. The Bureau is also making a number of operational changes that are discussed in that report in order to strengthen the management and administration of the Osage mineral estate.

At least one commenter suggested that a new subsection should be added to Section 226.4 to require the Superintendent to adopt rules prohibiting Osage mineral headright holders from working in the lease inspection division of the Bureau to avoid conflicts of interest.

Congress has recognized that Indian tribes and their members should have direct involvement in federal programs enacted for their benefit. Under 25 U.S.C. 472, Congress recognized that Indians should be involved in the day-to-day operations affecting them and the Bureau of Indians Affairs must apply Indian preference to positions open in the Osage Agency. The Department is not persuaded by the assertion that Osage headright holders who may be employed by the Osage Agency will refuse to enforce regulations simply to advance their alleged personal self-interests. In any event, employees are accountable to their supervisors and ultimately to the Secretary. If there are issues with non-compliance, members of the public may contact the Department to report such violations.

E. Comments Related to Section 226.5

At least one commenter suggested that Section 226.5(c) be revised to require the Superintendent to notify the surface owner beneath whose land minerals are leased.

This comment is adequately addressed in the rule. The Negotiated Rulemaking Committee agreed in response to similar public comments raised in the negotiated rulemaking process that surface owners should have access to information regarding whether an oil and gas lease covers their surface estate. Thus, as proposed and adopted in the final rule, Section 226.5(c) requires that the Superintendent post at the Agency, within 30 days following approval of a lease, a legal description of the mineral estate that was leased. This ensures that surface owners have access to information regarding lands leased, while reducing the burden of the Osage Agency in locating and notifying each individual surface owner.

F. Comments Related to Section 226.6

At least one commenter suggested that in Section 226.6(a), regulatory language be included clarifying that a lessee that surrenders its lease is still liable for plugging, abandonment, and reclamation obligations associated with the lease area.

In response to this and other comments concerning abandoned and unplugged wells, the Department has added a paragraph (c) to Section 226.6, to require the Superintendent to ensure that the lessee has either plugged all wells and reclaimed the surface, in accordance with the regulations, or show in writing that upon surrender the future liability for all wells located within the lease or portion of the lease to be surrendered has been transferred to another party.

G. Comments Related to Section 226.8

Some commenters suggested that the terms of an oil and gas agreement should be given primacy so that the regulations recognize that in the event of a conflict between the regulations and an oil and gas agreement, the terms of the oil and gas agreement control. These commenters expressed a lack of clarity in the intent behind Section 226.8 and proposed to make clear whether 226.8 includes a pre-existing lease. One such commenter requested leaving existing leases as they are (highest posted price) and only making new leases subject to NYMEX, stating that otherwise there will be legal challenges.

The Department does not believe a change in the rule is needed to address this comment. Section 226.8 has only been renumbered in the rule (previously numbered as Section 226.7). That provision specifies that amendments or changes to the regulations cannot change the terms of pre-existing approved leases with respect to the term of the lease, rate of royalty, rental or acreage, unless otherwise approved of by the parties and the Superintendent. Thus, the rate of royalty in pre-existing approved leases will not change as a result of the rule, but the provision describing how royalty is calculated (*i.e.,* NYMEX at Cushing), could properly apply to pre-existing leases. This rule could also affect such matters as lease operations and maintenance requirements, reporting requirements, and other aspects of pre-existing leases other than the key lease terms specified in Section 226.8.

H. Comments Related to Section 226.9

Some commenters noted that the proposed rule requires each lessee to pay a new and unique bond for the development of the Osage minerals estate and does not include recognition or acceptance of already established and sufficiently protective nationwide bonds regularly posted by lessees. These commenters suggested that not allowing a nationwide bond would be completely atypical and singularly applicable to the Osage Agency and could hinder development.

The Department agrees with this comment and has added the provision allowing nationwide bonds back into Section 226.9 of the rule.

Several commenters objected to the increase in the amount of bonding required and asserted that requiring bonding at $5,000 per well is unaffordable. Some argued that lessees will have to plug wells because they won't be able to afford bonding or that the new amount will tie up capital available to the lessee to develop production.

The Department disagrees with this comment and in reviewing the record has found that there is a need for increased bonding. The Department

found that the Committee looked at the actual cost to plug wells and tried to find a balance between covering the cost of plugging a well while, at the same time, not overly burdening lessees. The original bonding amounts were based on a quarter section and did not correspond in any way to plugging and remediation costs related to wells, which must be done on a per well basis. The new regulation ties bonding to the number of wells and caps the per well bonding requirement at 25 wells for all leases, corresponding more directly to the fact that plugging costs are incurred on a per well basis. While some commenters requested that the Department include an allowance for nationwide bonding, none of public comments justified an alternative bonding amount. Thus, the Department found that overall, the Committee recommendation was reasonable and reduces administrative costs because the per well bonding streamlines implementation. The Department also found it necessary to maintain per well bonding requirements in light of a recent report on the Osage Agency issued by the Department OIG, which discussed and noted the historical failure to plug wells in Osage County and the need to ensure that this problem is addressed in the future.

Some commenters argued that limiting bonding to $5,000 per well for up to 25 wells is inadequate to ensure sufficient remediation and recommended no less than $5,000 for shallow wells (less than 3,000 feet in depth) and $10,000 for deep wells (deeper than 3,000 feet) and deletion of any cap. Some of these commenters requested that the per-well bonding amount should be defined as an amount sufficient to cover 125% of the cost of (i) plugging a single well and (ii) reclaiming the well site and surrounding land impacted thereby.

The Department believes that the rule sufficiently balances the need for increased bonding with the fact that bonding is only for insurance purposes and does not eliminate the lessee's obligations to plug abandoned wells and remediate surface lands in coordination with surface owners. Bonding is only intended to provide assurances to the Bureau that the lessee has incentive to plug a well and is not intended to create complete upfront funding for the plugging of a well at an unknown time in the future. Nor is bonding intended to cover surface remediation. To the extent that a surface owner is unsatisfied with remediation on the part of a lessee, he or she may seek damages in accordance with Sections 226.40–41, or pursue any other legal remedies available to him or her. The Department found that the Committee considered, but rejected after substantial public comment in opposition, the notion to require bonding at 125 percent the cost of plugging a well.

Some commenters requested that a final rule provide a grandfather provision for bonds on existing leases that would also apply to any new leases that the same lessee may acquire.

The Department has concluded that it is necessary to make changes to bonding with Osage County and there have been historical problems with adequate bonding in Osage County as found in the recent report issued by the OIG in October 2014. The Department found that the issue of bonding was discussed throughout the negotiated rulemaking process and that members of the Committee and the public noted that the current rate of bonding does not relate at all to the fact that costs for plugging occur on a per well and not per lease basis. Moreover, members of the public have commented that they believe there is a problem throughout Osage County with abandoned and unplugged wells and current bonding rates were not sufficient to address or encourage remedying these issues. Thus, the Department believes that it is reasonable to adopt the revised bonding amounts proposed by the Negotiated Rulemaking Committee to better relate bonding to the cost of plugging a well and incentivize lessees to plug wells that will no longer be used so that they can get a release of their bond. The rule also provides new provisions for ensuring that the Bureau releases bonds in a timely manner.

Some commenters asserted that most insurance companies won't write oil and gas lease bonds now and the new regulation will make it more difficult.

The Department does not believe that the rule will make it more difficult to obtain oil and gas lease bonds. Moreover, while the amount of bonding has increased, the rule caps the amount of the increased bond to a maximum of 25 wells. The rule allows for different ways to acquire a bond, including the ability to obtain a surety bond that meets the requirements of the rule, and the Department has further revised the rule to allow nationwide bonds, which are accepted elsewhere on other Indian and Federal lands. While the Department understands that there may be some lessees that for various reasons may not be able to get a bond, the Negotiated Rulemaking Committee discussed that some of the issues related to those failures were due in part to defaults caused by particular lessees and are not attributable to the cost of bonding. Bonding is a requirement throughout the oil and gas industry and those who want to engage in oil and gas operations must expect to be required to provide assurance that they will properly plug and reclaim their well sites.

Some commenters asserted that bonding at $5,000 per well is unaffordable and will cause small lessees to go out of business because most wells are either not able to produce enough to cover the bonding amount or are inactive and pose no threat the environment.

For many of the reasons addressed in other responses to comments on bonding, no additional changes are necessary in response to this comment. In addition, the unused and unplugged or abandoned wells do pose a threat to the environment such as possible pollution of fresh water formations due to migration of oil, gas, saltwater and other substances. For example, abandoned wells can provide pathways for oil, gas or brine-laden water to contaminate groundwater supplies or to travel up to the surface due to the deterioration of the casing or surface equipment deterioration or malfunction. If the production is insufficient to cover the cost of bonding, the Department is concerned that the production will also be insufficient to cover the cost of plugging and reclamation. Thus the increase in surety amounts will help ensure the operator's diligence in plugging and abandoning and reclaiming the surface.

At least one commenter suggests that there should be a ceiling to the bonding requirement, like the State of Oklahoma's cap at $25,000 per lessee.

This comment is already addressed by the rule, which does provide a cap for bonding in Section 226.9(c) at $5,000 per well for a maximum of 25 wells per lessee for all leases held within Osage County. Additionally, in response to public comment, the rule was further revised to allow nationwide bonding.

At least one commenter suggested that the cap on bonding amounts should be eliminated from the regulations.

The Department disagrees with this comment because it is generally accepted within the oil and gas industry that bonding is for insurance purposes and is not intended to cover the entirety of the costs associated with plugging and remediation of every well site, rather bonding provides an incentive to perform plugging and remediation of well sites and screens out unreliable lessees who fail to perform these duties because lessees that default on their responsibilities will not be able to get a bond in the future.

At least one commenter suggests bonding should follow the Oklahoma Energy Resources Board model used in the rest of the State of Oklahoma.

No changes to the rule are necessary with respect to this comment. The Oklahoma Energy Resources Board (OERB) does not bond or plug wells. The OERB is a State-incorporated surface restoration agency that lessees in the State of Oklahoma voluntarily contribute to for remediation and reclamation of abandoned well sites at no cost to surface owners. The Bureau has met with OERB and confirmed that OERB has historically been willing to operate within Osage County and currently works with surface owners and the Bureau for Remediation within Osage County in accordance with its normal process and procedures. The goal of the regulation is to prevent orphan wells that will further burden OERB and the responsible operators who fund it.

Some commenters noted that they are generally pleased with the proposed regulations but noted their concerns with plugging wells. Specifically, commenters stated that bonding needs to be more proactive and well sites remediated because the proposed regulations do not address current abandoned wells and, rather than plugging the wells, lessees often just pass wells to the next lessee when they assign or sell their lease.

This is an issue that cannot entirely be addressed in the regulations, which govern on-going oil and gas operations. The Department recognizes that there is an issue with respect to abandoned wells within Osage County and works with the Osage Minerals Council to address these issues. The Osage Minerals Council has contracted with the Bureau to take over the function of plugging orphaned or abandoned wells and currently operates the program within Osage County. In addition, as mentioned in previous responses, OERB operates in Osage County to remediate the surface area around orphaned or abandoned wells that have been plugged. To the extent that this issue can be remedied in the future by the rule, the Department has increased bonding to more closely relate to costs associated with plugging a well and reclamation (on a per well basis) to provide an incentive to ensure lessees properly plug and abandon wells and has also added a provision, Section 226.6(c), requiring that before a lease can be surrendered or partially surrendered, the lessee retains any past liability incurred within the lease or partial lease to be surrendered, and must show that he has either properly plugged and abandoned all wells and/or that another party is taking full legal liability for the wells within the lease or partial lease to be surrendered. In addition, a new provision was added as Section 226.29(a)(i), clarifying that the assignment is subject to the continuing obligations of the assignor to meet its plugging and abandonment obligations, and a new Section 226.29(a)(ii) was added making clear that the assignee retains all responsibility for all unplugged wells under the lease or partial lease assigned.

To address the abandoned well issue within Osage County, one commenter suggested that a company fund be established whereby lessees would pay in the value of 2 barrels of oil per year for each active well less than 4,500 feet and 3 barrels of oil for wells less than 7,500 feet and the fund would be used to plug abandoned wells.

The Department does not believe this is an issue within the scope of the rulemaking. The regulations govern on-going oil and gas operations. To the extent that there are historical issues with respect to abandoned wells and well sites, the Department can explore with the Osage Minerals Council whether or not a voluntary fund could be established to address the historical issues. The Department also reiterates that as stated in responses to other comments, OERB does operate within Osage County to remediate abandoned well sites and the Osage Minerals Council currently operates the program for plugging abandoned wells.

I. Comments Related to Section 226.14

Numerous comments were received objecting to the termination for non-production in Section 226.14(e). Commenters suggested that the timeframe for termination for nonproduction needs to be increased and/or kept at one year and not 90 days. One commenter noted that if a particular well produces very little, it is necessary to have the time to evaluate the upper and lower potential of the well regarding future oil and gas opportunities, as well as the ability to shut the well in for short periods when the price of the oil or gas becomes uneconomical to produce at that well without the lease being terminated. Another noted that the 90-day requirement will prevent companies from purchasing tracts because they will not have time to put the tracts into production. One commenter suggests that a more reasonable requirement would be a 180 day period, with notice to the Superintendent that the lessee needs an extension 20 days prior to the expiration of the 180 day period. Some commenters noted that people have other full time jobs and can't get work done quickly and it sometimes takes a few months to get work done. Another commenter stated that the one-year termination provision has been working fine and it is expensive to hire people to fix problems and lessees don't always have the money. Some commenters noted that oftentimes equipment is backordered or weather causes delay and they wouldn't be able to comply with the 90-day requirement.

In response to comments, the Department has further revised the rule to change the time period for termination for non-production from 90 days to 120 days and require that requests for extension of time be submitted at least 20 days prior to expiration of the 120-day period, but given the additional time for non-production and the need to reduce administrative burdens in enforcing this provision, the Department deleted the provision allowing the Superintendent to waive the 20 days advance notice requirement. For clarification purposes, the Department also added a standard for extending temporary suspensions to require good cause. The Department found that there was substantial discussion on this issue during the negotiated rulemaking and the Osage representatives on the Committee were opposed to allowing nonproduction for periods of 180 days or more. Although the Osage representatives on the Committee also rejected a 120-day timeframe during the negotiated rulemaking process, the Department had to balance the concerns of the Osage representatives with the concerns of the lessees regarding operation contingencies and its ability to administratively manage leases for nonproduction. The Department did not view as relevant, concerns that a lessee may have another job that inhibits his or her ability to produce within a particular timeframe or concerns that a particular lessee may not be able to afford equipment or staff because Section 226.14(c) states that all lessees have an obligation to diligently develop their lease. The Department also found that concerns regarding the ability to put a well into production were misplaced because Section 226.14(e) only contemplates termination for nonproduction after the primary term of the lease when the lessee is expected to begin production.

At least one commenter suggested that lessees aren't in a rush to do business in Osage County and the Bureau needs to encourage lessees to keep their properties up, not terminate them.

No response is necessary to this comment because it is not substantive and does not provide any recommendations.

At least one commenter objected to 226.14(e) on the basis that some wells only produce one barrel per day and oil will not be picked up for sale within 90 days or for at least six months, and under this provision this producing well would be considered non-producing because no sale took place within 90 days and that is unfair.

This comment misinterprets Section 226.14(e), which does not provide that wells that are producing in paying quantities would be terminated for nonproduction within the prescribed timeframe. It is understood that sales are intermittent in nature and that a well may be producing but that a sale may not occur within 90 or 120 days. So long as the lessee reports production, the lease will continue, it is only the failure to produce, not the failure to sell, that terminates a lease under this provision. The regulations, however, expressly provide that all lessees have an obligation to diligently develop their leases as set forth in Section 226.14(c).

A commenter stated that the requirement to drill on every quarter section in order to hold a lease exposes lessee to excessive financial risk and causes excessive impacts to the land and wildlife. Leases should instead be structured to allow focused drilling.

This comment does not accurately characterize Section 226.14(a). Section 226.14(a) requires a lessee to place a well in production within the land embraced by a lease within 12 months of the date of approval of the lease, or as otherwise provided for in the lease terms, but does not require a lessee to drill in every quarter section. A lease may encompass an entire quarter section or a larger land area. Lessees are required to act prudently in addition to diligently developing the mineral estate. The rule also includes provisions to ensure that lessees conduct all operations in a manner that protects other natural resources, environmental quality, life and property. *See* Section 226.33.

At least one comment was received suggesting that the factors in Section 226.14, governing when the Superintendent may impose restrictions as to time of drilling and rate of production, should be expanded to encompass environmental, public health and safety concerns, and the interests of the Osage Tribe, because activity should not unduly interfere with surface uses.

The Department disagrees with this comment. The Osage mineral estate is held in trust by the United States and was reserved by the United States for the purpose of mineral development. The rule also does not change the basic premise of law that a surface estate is subservient to a dominant mineral estate. The rule recognizes that a lessee is permitted to use as much of the surface estate that is reasonable for operations. *See* Section 226.37. Thus, the regulations provide limitations on size of drilling sites (Section 226.38(a)(3)) and require that lessees conduct operations to protect other natural resources and environmental quality, life and property (Sections 226.33(a)(2)–(3) & 226.45), and require lessees to take certain steps to prevent pollution (Section 226.44). At the same time, lessees have an affirmative obligation to diligently produce a lease (Sections 226.14(c) & 226.33(a)(4)) in accordance with the overall statutory and regulatory framework. In the event that a lessee is violating the regulations, the Superintendent has authority to take actions to remedy the violations (Sections 226.67 & 226.68).

J. Comments Related to Section 226.15

At least one commenter objected to 226.15 with respect to drainage asserting that drilling offset wells to prevent drainage is not necessary because the Nation owns all the minerals in Osage County. Drilling offset wells would not only require considerable time, resources and expense, but this unnecessary drilling could adversely affect environmental damage. It was suggested that the Bureau should consider removing this section entirely or narrowing its scope to clarify the conditions where offset wells are necessary and also ensure that there is an appeal process to protect against arbitrary decision making.

Under the 1906 Act, the mineral estate is held in trust by the United States for the benefit of the Osage. However, the drainage provision in the Rule is intended to ensure diligent development of all lease sites because not all leases have the same royalty rate. Thus, if a lessee holds multiple leases next to each other, the drainage provision will ensure that the lessee is not able to focus drilling only the lease site that has a lower royalty rate to the detriment of the Osage. However, to further clarify the provision and reduce the burden on lessees, subsection (b) was revised to clarify that drainage does not occur if the lessee can show that it could not produce a paying quantity of oil or gas ''for a reasonable profit'', rather than ''in paying quantities.'' Usually ''in paying quantities'' only means enough to recover day to day operational costs. Subsection (d) was also amended to clarify that an assignee is responsible for drainage even if it would not be economic, at the time of assignment, to drill an offset well, to ensure that the Osage are protected if a lease is assigned. The Department also notes that 226.16(d)(1) is intended to clarify that a well drilled to protect against drainage must be in continuous production and the obligation to pay compensatory royalty can be revived if the protective wells cease production.

K. Comments Related to Section 226.18

Several commenters suggested that measuring oil royalties based on NYMEX pricing is unattainable and that it is unfair to require lessees to pay a royalty based on a price they cannot obtain. One commenter suggested that NYMEX will gouge small lessees and others suggested that NYMEX will hurt Osage shareholders. A few commenters suggested, rather than NYMEX, royalty rates should be commensurate and competitive with those found in the region and in similar places around the country. One commenter suggested that only if the rule required lessees to be paid NYMEX prices would it be fair. Another noted that it is okay to use market center price as a reference point, but the market center price must be adjusted for location and quality. Another stated that because many wells in Osage County are stripper wells and produce low volumes and are only profitable under the existing regulations, NYMEX would harm profitability and shorten production life of leases, and suggested instead that royalty should be based only on the price paid to lessees, allowing the competitive marketplace to set the prices. One commenter noted that NYMEX will cost as much or more than $3 per barrel more than what is being paid now.

In the Osage Tribal Trust Settlement, the Department agreed to engage in a negotiated rulemaking and, among other things, identify appropriate revisions to the methods for calculating royalty for oil and gas. The Negotiated Rulemaking Committee reviewed various indices to utilize for calculating royalty. The Committee sought a price benchmark that (1) was appropriate for oil sold in Osage County, (2) accurately reflected the oil market in Oklahoma, (3) was widely published, and (4) independent. The committee found that NYMEX was the only benchmark that met all four criteria. After public comment, the Committee decided to propose NYMEX at Cushing, Oklahoma, as the index for calculating oil royalties. The Bureau had the ONRR review and evaluate NYMEX

at Cushing to determine whether it was an appropriate market center for Osage County. The ONRR's report recommends using NYMEX at Cushing based on its review and analysis of price data from Osage County and the surrounding area coupled with ONRR's experience using different index prices for Federal oil valuation. Specifically, ONRR found that NYMEX is widely used and accepted by the industry and is representative of the value of oil and gas received on and near Osage County. ONRR also found that because Osage County is so close to Cushing, Oklahoma, adjusting NYMEX for location is unnecessary. The rule, in Section 226.19 (gravity adjustment table) also provides for adjustments to NYMEX based on the quality of the oil. The Department also found that during the public comment process in the negotiated rulemaking meetings virtually no alternative indices for royalty valuation of oil were suggested by the public, other than keeping the highest posted price. The Department found that the Committee explained to the public that a change in royalty was needed because some on the Committee did not believe that the highest posted price was protective of the trust beneficiary and that highest posted price was subject to manipulation and did not protect the trust beneficiary from non-arms-length transactions. The Department is required to establish regulations concerning Indian oil valuation based on its federal trust responsibility to act in the best interests of the Indian beneficiary, including a duty to maximize revenue for Indian tribes and Indian mineral beneficiaries. The Department also found that during the negotiated rulemaking, a staff member to the Committee noted that in his view since 1994, the highest posted price was often below sale prices for many lessees and, as a result, Osage headright holders were not always receiving the full royalty amount that they were due. In conjunction with the Report from the ONRR and the recommendations from the Committee, the Department has determined that utilizing NYMEX at Cushing, Oklahoma to calculate royalty payments for oil protects the interests of head right holders and is not overly administratively burdensome to implement or enforce.

A commenter suggested that the oil royalty benchmark be established at the highest rate that the market will bear on the basis of the sale of West Texas Intermediate (WTI) crude, not NYMEX futures contracts. Similarly, a commenter suggested the gas royalty benchmark be established at the highest rate that the market will bear. Both would allow leases to be competitively bid or negotiated to acquire the maximum ultimate economic recovery.

The Department agrees that there is merit to the use of WTI as the pricing benchmark for Osage oil. That was considered during the sub-committee evaluation of the various benchmark options. Use of WTI was ultimately rejected by the Committee because it would require location differential pricing and transportation adjustments that did not satisfy the request for simplicity and the need to minimize administrative burdens. Furthermore, WTI did not mirror the Oklahoma market as well as NYMEX settlement at Cushing. Benchmarks based on weighted average prices of arms-length transactions in a given market area are generally considered a fair representation of market value. Terms that require ''the highest rate the market will bear'' are, by their very nature, dismissive of transactions that occur below that threshold. As such, they would be unfair to parties that are able to negotiate satisfactory arms-length agreements below ''the highest rate the market will bear.'' Pricing based on such terms would not be considered fair market value.

Several commenters requested that a transportation allowance for trucking or piping oil to Cushing should be factored into the calculations when the lessee uses the Cushing posted price in accordance with Section 226.18(b)(1). Some of these commenters stated that transportation allowances are also appropriate when, under Section 226.18(b)(2), a lessee sells oil in a location other than Cushing and the actual sales price exceeds the Cushing price because of the transportation costs incurred by the lessee. Other commenters suggested that transportation costs need to be taken into account because of the economic fact that there is a cost involved if you want to sell oil.

The Bureau had the ONRR review and evaluate NYMEX at Cushing, Oklahoma, to determine whether it was an appropriate market center for Osage County. The ONRR's report recommends using NYMEX at Cushing based on its review and analysis of price data from Osage County and ONRR's experience in using this process for Federal oil valuation. The ONRR also found that because Osage County is so close to Cushing, Oklahoma, adjusting NYMEX for location is unnecessary. The ONRR recommended against allowing transportation deductions and noted that eliminating transportations deductions would: (1) Increase revenue to the Osage, (2) reduce litigation costs to the Tribe and industry, (3) provide certainty to the industry and assure more contemporaneous compliance and (4) reduce administrative costs to the Federal government and the industry. Based on those recommendations and the Bureau's desire to reduce administrative costs while at the same time fulfilling its trust responsibility, the Department decided against allowing transportation allowances. The Department also found that there was discussion of whether to allow transportation allowances during the negotiated rulemaking, but the Committee also chose not to allow for such deductions for a variety of reasons, including the difficulty in developing a simple formula and the administrative burdens of enforcing accurate transportation deductions.

One commenter noted that under Section 226.18(c), for royalty taken in kind, a lessee can be required to supply free storage for a period of 60 days, and this subsection should provide that if the lessor elects to exercise this right, the lessee should be indemnified or held harmless for losses of such oil by causes beyond the lessee's control.

Section 226.18(c) was previously numbered as Section 226.11(a)(3), and has not been revised through this rulemaking. No further changes are necessary to this provision at this time and the Department has not been provided with sufficient information to reasonably support a change.

L. Comments Related to Section 226.19

One commenter requested that Section 226.19 be clarified to provide that the Superintendent must comply with the rulemaking notice and comment process before the Superintendent may publish new gravity adjustments ''based on substantial evidence, that market conditions so warrant.''

No changes are necessary in response to this comment because actions of the Department must comply with the Administrative Procedure Act. Moreover, it is uncertain whether or not the Superintendent would publish new gravity adjustments in the future or what process the Superintendent would follow to do so. If and when that occurs in the future, any final decision may be challenged in accordance with the Administrative Procedure Act.

One commenter suggested that the Department of the Interior should not allow any exceptions or deductions that are not specifically permitted by the 1906 Act or other applicable laws.

It is unclear whether this commenter was referring to deductions for oil (Section 226.19) or gas (Section 226.20). Regardless, the only deduction allowance for royalty paid on oil is based on a gravity adjustment. *See* Section 226.19. No deductions are allowed for royalties paid on residue gas produced on a lease, and the only deduction allowed for royalties on natural gas are the ''reasonable cost for processing not to exceed 50 percent of actual sales value of natural gas liquids produced from the lease (including drip condensate).'' *See* Section 226.20(c).

M. Comments Related to Section 226.20

One commenter noted that 226.20(a), which provides that royalties would be assessed and measured before water vapor is removed from the gas and the gas is in a marketable condition, and asserts that this would artificially inflate meter volumes without increasing the volume of gas produced.

The Department is confused by this comment because nowhere does 226.20 state that gas volumes must be determined prior to removing water vapor. It is assumed that the commenter was actually referring to 226.20(b). The requirement in 226.20(b) was added to prohibit adjustment to the measured volume of gas for assumed water vapor content. This requirement does not prohibit the physical removal of water vapor or placing the gas into marketable condition prior to measurement, however. We agree with the commenter that the wording was unclear and have changed the wording in 226.20(b) to clarify this and have also added specific technical requirements that were previously missing to address calculating the heating volume of gas to aid the lessee in complying with this section.

One commenter stated that Section 226.20(c) establishes a dual accounting system, but the use of a dual accounting system to calculate gross proceeds is an issue that is more properly addressed and negotiated by the Nation and the lessee in the lease document at the time it is signed. Empowering the Superintendent to change this calculation system on such short notice introduces substantial uncertainty into the calculation of royalties, discouraging prospective lessees from entering into agreements with the Nation.

The Department disagrees with this comment. The Department did find that the reference for dual accounting in the proposed rule (30 CFR 1206.173) was incorrect and has added the correct reference (30 CFR 1206.180(a)–(b)). However, the purpose of the provision is so that if the actual reasonable cost of processing as required by this section cannot be determined, the lessee is required to perform the accounting for comparison (dual accounting) as outlined in 30 CFR 1206.180(a)–(b). On other Indian and Federal lands outside of Osage County, approval for the alternative methodology rests with ONRR, not the tribe. In Osage County, unless otherwise delegated, ensuring compliance with those same provisions is now vested in the Superintendent because this rule makes them applicable to Osage. In all cases, the application of alternative methodologies for accounting are directly tied to the lack of transparency of processing costs and an inability to determine those costs for allowance purposes. The requirement does not interfere with any agreements the lessee has or will make.

One commenter asserted that Section 226.20 requires a double royalty to be paid where gas produced from one well is used for lift purposes on another well—solely because it passes the point of metering on both wells—and disagreed with this, noting that it is widely accepted that gas used on-site for beneficial purposes of the lease is not royalty-bearing and this proposal would run counter to that principle.

Section 226.20 requires only that all gas *removed from the lease* be metered before removal and subject to a royalty of not less than 20 percent, unless otherwise approved. That regulation ensures that the Osage get royalty for any gas moved off the lease site, even if it is used for operations at another location. The regulation does not prohibit gas developed from a lease site from being used for operations on the same lease site. On the other hand, Section 226.63 does require that all gas be measured in accordance with BLM Onshore Oil and Gas Order 5, to ensure that all gas that is required to be measured is properly accounted for, but royalty payments on gas are controlled by Sections 226.20, 226.21 & 226.22.

A commenter expressed support for the attempt to provide for a royalty on residual and other marketable products and urged that the meaning of the relevant calculation be made clear.

The Department is not certain it understands this comment, but notes that the determination of royalty on other marketable products is explained in Section 226.23, which is a provision that was contained in the prior regulations, but revised in the final rule to clarify that royalty due on other marketable products is in addition to any royalty that may be due on oil and gas in accordance with the regulations.

N. Comments Related to Section 226.25

At least one commenter suggested that the due date for royalty payments doesn't need to be changed to accommodate any entity other than the Bureau.

The due date for royalty was changed to make it consistent with the date that royalty payments are due to the ONRR, in the event that the Secretary delegates royalty collections and audits to ONRR to aid the Bureau in its management and administration of the Osage mineral estate. ONRR has the capacity to provide assistance to the Bureau without the Bureau having to duplicate services that ONRR already provides on other Indian and Federal lands.

O. Comments Related to Section 226.27

At least one commenter objected to Section 226.27(a)(2), which requires the Superintendent to approve all division order and sales contracts before production may ''be removed from the leased premises.'' It was suggested that this provision would impose a substantial administrative burden on the Bureau when they already face backlogs and uncertain funding.

Section 226.27(a)(2) was not substantively changed through this rulemaking, but was renumbered (from Section 226.14(a) in the old regulations to Section 226.27(a)(2)) and reformatted for readability only. Issues relating to staffing and funding are also outside the scope of this rulemaking, although the Bureau has worked with the Osage Agency over the last few years to address budget shortfalls and staffing needs.

P. Comments Related to Section 226.29

At least one commenter objects to the provision in Section 226.29(a) that requires lease assignments to be approved by both the Superintendent and the Osage Minerals Council because no procedure or standard is specified for obtaining those approvals or appealing the decisions. It is also not clear what happens if there is a disagreement between the Superintendent and the Minerals Council.

The regulations have always required lease assignments to be approved by both the Osage Minerals Council and the Superintendent. This rule does not change that requirement, but deletes the provision allowing lessees to assign separate horizons because the Department found, in reviewing the rule, that such assignments do not generally occur at Osage and when they did, they were so administratively burdensome that the Agency could not

monitor those assignments. As a general matter, the Minerals Council is the entity that enters into and approves all leases and assignments in accordance with their governing authority and procedures. Once the Minerals Council approves a lease or lease assignment, it is submitted to the Superintendent for federal review and approval. Any final decision of the Superintendent is governed by 25 CFR part 2 and the Administrative Procedure Act.

Q. Comments Related to Section 226.33

One commenter requested that there should be additional restrictions to protect natural resources and public safety and the restrictions should provide sufficient detail to allow lessees to comply and the Bureau to enforce. The commenter also suggested that best management practices should be developed to protect wildlife and other natural resources.

This comment is already addressed in Section 226.33 of the final rule, which requires that lessees conduct all operations in a manner that protects other natural resources and environmental quality and protects life and property while also balancing those responsibilities with the requirement to maximize production of oil, gas and other marketable products. Sections 226.44–226.45 also provide additional protections for the prevention of pollution and environmental concerns and were added in response to similar concerns raised during the negotiated rulemaking process. To the extent that the commenter desires the Bureau to develop best management practices outside the regulations, those comments are beyond the scope of the rulemaking. However, the Bureau is currently engaged in a process with the U.S. Environmental Protection Agency (EPA) to revise and update an existing Osage Lessees Manual that addresses environmental protection and response, including best management practices. The Osage Minerals Council, Osage Nation, State of Oklahoma, lessees, and surface owners were involved in the public listening sessions as part of that process. Moreover, the rule does not replace other applicable environmental laws or regulations and EPA is responsible for overseeing certain aspects of oil and gas operations within Osage County.

R. Comments Related to Section 226.34

One commenter noted that the Bureau should not approve a lease, installation, permit or other activity until an environmental impact assessment has been completed and any issues have been resolved. To that end, the Bureau should regularly consult with Federal, State, and local wildlife agencies to reduce conflicts between wildlife conservation and oil and gas production.

Notwithstanding the regulations, the Bureau is required to ensure compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* Further, Section 226.5(d) makes clear that before approval of each oil and/or gas lease and activities and installations associated therewith must be assessed and evaluated for its environmental impact. Although the Bureau already undertakes environmental reviews before approving certain actions, Section 226.34 has been further amended to expressly note that the NEPA is part of the environmental compliance review and must be completed before the Superintendent may grant authority under a lease to conduct certain operations.

S. Comments Related to Section 226.35

At least one commenter suggested that Section 226.35 as written appears to reverse the ancient rule that the surface estate is subservient to the subsurface/mineral estate, thereby giving the surface owner a veto over mineral development. In particular, paragraph (b) only provides that the Superintendent will endeavor to bring the parties to terms so that a lessee may develop on a restricted homestead and this is different than allowing the lessor to enter upon surface lands and utilize subsurface rights and would delay development. Additionally, paragraph (c) provides that when no agreement between a surface owner and lessee can be reached for surface usage, the Minerals Council can make a final binding decision, but this paragraph does not include a requirement that the Minerals Council recognize the legal subservience of a surface owner's right or take into account the reasonableness of the lessee's request, or apply standard methods of valuation to the interests being adjudicated. This commenter notes that it is also unclear what appeals rights a lessee has to such determinations.

Section 226.35 (previously numbered 226.17) was not substantively changed in the rule. References to the ''Osage Tribal Council'' to the ''Osage Minerals Council'' were changed because the Osage Tribal Council no longer exists and it is the Osage Minerals Council that oversees the Osage Mineral Estate. Moreover, Section 226.35 governs the use of restricted homestead and not all surface lands within Osage County. The Bureau has a unique role with respect to operations that occur on a restricted homestead and this section ensures that the appropriate procedures are followed to enable the Bureau to participate in a decision impacting the restricted homestead in order to protect the restricted surface owner to which the United States has a trust responsibility, but those provisions do not change the legal principles related to the surface and subsurface mineral estate that are applicable in Osage County.

T. Comments Related to Section 226.36

One commenter stated that Section 226.36 should also require that no operations may begin until the lessee can meet and negotiate in good faith with the surface owner to ensure the health and safety of the lessee and the health and safety of others using the State's wildlife management area.

No change has been made in response to this comment. Section 226.36 only relates to commencement of operations, and Section 226.33 of the rule provides that lessees are required to comply with all applicable laws and regulations, including protecting natural resources and environmental quality, and life and property during their operations. To the extent a surface owner believes that a lessee is engaged in operations that are harmful to the health and safety of humans, such actions should be reported immediately to the proper authorities and the Bureau maintains a 24-hour hotline for such purposes.

One commenter disagreed with provision allowing the Superintendent to set routes of ingress and egress in Section 226.36(b)(2) if no agreement between lessee and surface owner can be made and suggests using an unbiased alternative decision maker.

In response to comments, we have further revised Section 226.36(b)(2) to allow both the surface owner and the lessee to meet with and submit information regarding such routes before a final determination is made. This will allow for the consideration of relevant parties before making a determination, which provides added protection for all parties.

At least one comment was received noting that it is not clear how Section 226.36(b), requiring the lessee to meet with the surface owner or his/her representative, is met when there are tracts with multiple or numerous surface owners. The commenter proposes that the Bureau qualify that this provision is met by meeting with the majority owner(s).

No change has been made in response to this comment. A particular lease could include multiple tracts of land that are owned by different surface owners and the owners of each surface

estate must be separately met with to ensure proper notice and due process.

U. Comments Related to Section 226.37

Some commenters suggested requiring lessees to meet prior to operations and enter into a written surface use agreement to address, among other things: (a) Identify and limit the size and locations of well pads, roads, pipelines and power lines; (b) govern the timing and scope of operations to minimize disturbance to landowner's operations; and (c) outline reclamation and clean up obligations. In addition, some of these commenters suggested that lessees should adhere to BLM best practices and that any dispute should be governed by arbitration.

Section 226.36(a) already requires the lessee to notify or attempt to notify surface owners prior to commencement of certain operations and Section 226.36(b) requires that lessee request a meeting with surface owners to provide information regarding location of wells, route of ingress and egress and contact information for damage claims. In response to comments, however, the Department has added a requirement to Section 226.36(b)(2), which requires that in the event that the surface owner and lessee cannot agree on a route of ingress or egress, both the surface owner and the lessee will be notified by the Superintendent and provided with an opportunity to meet and/or to submit any information in conjunction with that process. In addition, Section 226.37, governing use of surface lands, already provides standards for surface use without the need for an additional requirement of surface use plans between the surface owner and lessee. The rule has always implicitly provided that the lessee and surface owner should work together regarding locations of well pads, roads, pipelines and electric lines and expressly provides a process for the routing of rights-of-ways including, for example, pipelines and electric lines, in the event that the surface owner and lessee cannot agree on a particular route. However, in response to comments, the Department has also added a requirement to Section 226.37(a) (similar to Section 226.36(b)(2)) to provide that the Superintendent will notify or attempt to notify both the surface owner and lessee and provide them with an opportunity to meet and/or to submit any information in conjunction with that process. In addition, Section 226.38 provides limitations regarding the size of drilling sites that lessees must follow in conducting operations.

A commenter suggested that Section 226.37(c) should also include a clause specifying the lessee's operational obligations be expanded beyond ''workmanlike manner'' to include avoiding waste, degradation of environmental quality, avoidable nuisance, threats to public safety and health.

The rule sufficiently addresses this comment without requiring a change to Section 226.37(c). Section 226.37 governs the use of surface lands generally, but is not the only provision in the regulation regarding a lessee's duties and obligations. Section 226.33(a)(2)–(3) already requires that that the lessee conduct operations in a manner that protects other natural resources and environmental quality and that protects life and property. Section 226.44 further specifies requirements that lessees must follow to prevent pollution, and Section 226.45 delineates lessee's other environmental responsibilities. In addition, Section 226.46 provides that a lessee must perform all operations and maintain equipment in a safe and workmanlike manner and take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property.

V. Comments Related to Section 226.38

Some comments were received objecting to the amount of commencement money in Section 226.38 as grossly inadequate and stating it should be significantly increased to fairly compensate landowners for immediate and long term impacts and loss of land as a result of well pads, roads, pipelines, power lines, tanks and other infrastructure and operations.

Commencement money is not intended to compensate surface owners for all damages to land as a result of oil and gas operations. Rather, it is intended to provide an upfront payment to surface owners that will be credited towards future damages. The rule has a process in Section 226.40, by which surface owners may seek additional damages. A number of commenters also raised concerns that increased commencement fees would be overly burdensome to smaller lessees. However, the commencement fees are intended to provide all surface owners, regardless of whether the lessee is a small or large producer, with the same up front compensation for the initial use of surface lands. During the rulemaking the Committee heard from many surface owners that the amount of commencement money was inadequate to the surface cover damage the surface. Thus, there is a need to balance these concerns while ensuring that surface owners are treated equally and receive some measure of compensation before they are able to recover damages for actual impacts to the surface as a result of oil and gas operations. An increase in commencement fees in conjunction with the ability of surface owners to continue to recover full damages strikes this balance.

At least one commenter suggested that no geophysical, geologic exploration or surveying or staking activities be allowed without the lessee entering into a written agreement with the surface owner regarding seismic activities.

Section 226.38 governs commencement of operations and provides that a lessee may commence operations, including seismic activities, once the commencement fees are paid in accordance with that section. This section in particular, has been revised from the previous regulations to increase the fees in response to surface owner comments during the negotiated rulemaking process, but the majority of the section was not revised. The Department found that there was discussion during the negotiated rulemaking with respect to the concept of requiring some kind of a surface use agreement before operations could begin, but ultimately the Committee did not propose that approach. Based on the record, the Department believes the rule contains sufficient standards governing the use of surface lands (Sections 226.36(b) & 226.37), including provisions aimed at ensuring that surface owners are notified of operations (Section 226.5(c); Section 226.36; 226.38(b)) and have the opportunity to participate in the process where applicable. *See e.g.,* Section 226.37(a). In addition, the rule continues to allow surface owners to seek compensation for damages caused by operations and provides an arbitration process to settle disputes between surface owners and lessees. *See* Section 226.40.

Some comments were received requesting that the Bureau recognize that a surety performance bond is generally required by the surface owner prior to conducting oil and gas activities—a requirement that is applicable in the State of Oklahoma under State law.

Oil and gas operations within Osage County are governed by federal law, including the 1906 Act and its implementing regulations. Under the rule, Section 226.38 requires commencement fees, rather than a surety performance bond, be paid to surface owners before operations may begin. During the negotiated rulemaking in response to public comment, the

Committee agreed to propose increases in the amount of commencement money due and this rule adopts those recommendations. Moreover, the regulations have always provided that the lessee and surface owner must negotiate settlement of damages after commencement of operations and these provisions remain unchanged in the final rule.

At least one comment was received objecting to the increase commencement fees in Section 226.38(a) on the basis that it will only destroy small lessees who work in an old oil field.

No evidence was submitted to support this comment. Further, this issue was discussed during the Negotiated Rulemaking Committee and this change was made in response to surface owner complaints regarding damages and lessee complaints regarding access. In particular, the Negotiated Rulemaking Committee explained that the increase in the commencement fee from $300 to $2,500 was made because $300 is an outdated amount and is creating development issues between the surface owners and lessees, as evidenced by the recurring issue in Osage County of surface owners blocking lessee access to lease sites because they believe the commencement fees are insufficient. Thus, the Committee increased the commencement fee to $2,500 to help mitigate this issue and believed it is a fair amount that would be applied to future damages, while at the same time balancing concerns of surface owners who are concerned about immediate damages to their surface estate. Committee members agreed that this fee should be paid before beginning operations, not at the time of permitting.

W. Comments Related to Section 226.39

A commenter suggested that Section 226.39, re: tank fees, be folded into the commencement money provision at Section 226.38(a).

Commencement money is not intended to cover fees for the siting of tanks. At the time that a lessee commences operations, he or she may not know how many tanks will be sited on the well site. Section 226.39 provides that when a tank is sited on a well site, the lessee will pay the requisite fees in accordance with that section. This provision ensures that the surface owner will be compensated for the siting of a tank at the time they are placed on a well site, while allowing the lessee to begin operations after the payment of commencement fees and before he or she may know how many tanks will be placed at the well site.

X. Comments Related to Section 226.40

One commenter noted that in his/her view, Section 226.40(a), regarding compensation to surface owners for damages encompassing ''all other surface damages as may be occasioned by operations,'' is open-ended and could result in needless confrontations or litigation. The commenter suggests narrowing the provision to provide for damages to ''growing crops [and] any improvements on the lands.''

Section 226.40(a) was not changed substantively from the prior regulations (original 226.20(a)). Moreover, this comment contradicts the purpose of the damage provisions in the rule, which are intended to be broad enough to cover any claims for damages that a surface owner may have against a lessee. The provision is not intended to take a position on whether a particular claim for damages does or does not have merit, but allows for such issues to be worked out between the surface owner and the lessee.

Y. Comments Related to Section 226.41

At least one commenter suggested that damage claims should be settled by the terms of surface use agreements and then, secondarily, by arbitration in Section 226.41.

For the reasons stated in responses to other comments, the rule does not require a surface use agreement. The rule does provide for a surface owner to be compensated for damages as a result of operations and arbitration may be sought if issues between the surface owner and lessee cannot be resolved. Nothing in the rule prohibits the surface owner and lessee from discussing issues related to operations early in the process to minimize disagreements.

Z. Comments Related to Section 226.45

Some commenters raised concerns that the proposed regulations fail to protect the land, environment, public health and safety and property rights of surface owners and suggested language to expand environmental protections.

This comment was addressed during the negotiated rulemaking and there is no need to further revise the rule. In response to similar public comments during the negotiated rulemaking, the Committee proposed, and the Department is enacting in the final rule, several new provisions aimed specifically at protection of the land, environment, and public health and safety. Those provisions include, for example, clarifying and specifying the lessee's environmental responsibilities and obligations while conducting operations (Section 226.45), adding compliance with BLM Onshore Oil and Gas Order 6 regarding H2S safety (Section 226.60(f)), adding requirements for ensuring well safety (Section 226.60(b)–(e)), site security (Section 226.65), and safety standards for lessee operations and equipment (Section 226.46). Moreover, the regulations have always had provisions regarding damages to surface lands and an arbitration process for resolving disputes that remain in the rule. It is relevant to note that one commenter specifically noted that the proposed rule does provide protections for the surface owner, for example, Section 226.38 requires lessees to remit a $2,500 commencement fee for each well drilled which is credited to the final settlement, and is an increase from the past rule of only $300. In addition, the payment of commencement fees does not affect the surface owner's ability to seek additional monies for damages and Section 226.40 allows a surface owner to seek additional monies for damages. Specifically, Section 226.41 provides for an impartial arbitrator to resolve issues and allows for arbitration awards to be challenged in a court of competent jurisdiction. Lastly, all Osage leases require the lessee to conduct operations consistent with a prudent operator standard and failure to abide by that standard or regulations specifically aimed at protecting the environment can subject the lease to termination under Sections 226.67 and 226.68.

AA. Comments Related to Section 226.46

A commenter suggested that a specific reference in Section 226.46 be made to prohibit leaving REDA cable on the ground.

The Department agrees that there is a need to address this issue, and has further revised Section 226.46 to include a provision requiring lessees to comply the National Electric Code with regard to the running and maintenance of electrical lines to ensure that minimum standards are required.

BB. Comments Related to Section 226.47

A commenter suggested that in Section 226.47, the granting of easements for wells off the leased premises be at the consent of surface owners as well as the Osage Minerals Council.

The Department disagrees with this comment. However, the Department does agree that a surface owner should be able to submit information as part of the process and has revised Section 226.47 to provide that the Superintendent will notify or attempt to

notify the affected surface owner(s) and provide an opportunity to meet and/or submit information before an easement is granted.

CC. Comments Related to Section 226.48

Several comments were received asserting that all of the surface water within Osage County belongs to the State of Oklahoma, so all permits for surface and groundwater should be stopped.

Section 226.48 governs the use of surface water and was not substantively changed as part of this rule. The ownership of surface water is a legal question that does not need to be, and cannot be, resolved as part of this rulemaking process.

Several comments were received suggesting that Section 226.48 in its current form authorizes the un-permitted use of surface water in Osage County and, in effect, the regulation purports to preempt the State of Oklahoma's regulatory authority. These comments propose amending Section 226.48 to state that Oklahoma law applies to all uses of water within Osage County. These commenters also suggest that all use of water must be permitted by the State, including use in oil and gas exploration, production or other operations otherwise shortages could occur for those using the same water source pursuant to an Oklahoma Water Resources Board permit.

As noted above, Section 226.48 governs the use of surface water and was not substantively changed as part of this rule. The ownership of surface water is a legal question that does not need to be, and cannot be, resolved as part of this rulemaking process. Comments were also received expressly disputing any comments asserting that all water use is subject to State law and this commenter notes that the Osage Nation's ownership and regulatory control of reserved waters within Osage County is a historical fact and without question, which is made clear by the creation of the Osage Reservation in 1872 and the Osage Mineral Estate in 1906. This comment further supports leaving Section 226.48 unchanged; moreover Section 226.48 was originally codified in 1974 and has remained unchanged for over 40 years.

DD. Comments Related to Section 225.53

A commenter suggested that a lessee's permanent improvements and personal property should be removed from the site when a well is abandoned, that there should be an upper limit of perhaps three years up to which wells can be ''shut in,'' and that the lessee should remediate a site within 90 days of well plugging.

These comments are adequately addressed in the rule to the extent necessary. Section 226.53(a) makes clear that any permanent improvements become the property of the surface owner and the only portion of that provision that was deleted was the exception for permanent improvement to become part of the surface when termination of a lease is for something other than cause, because it did not make sense to have such an exception as a legal matter. To the extent that a surface owner has been damaged by the siting of a permanent improvement, the regulations have always contemplated that the surface owner would seek damages in accordance with the damages provisions. Section 226.53(a) also already requires that a lessee remove all personal property within 90 days of termination of the lease. And, Section 225.53(c) requires that a lessee must plug all wells that are to be abandoned and Section 225.53(d)(4) requires that within 90 days of plugging the well, the lessee must clean up the premises around the well.

EE. Comments Related to Section 226.56

One commenter requested that the Bureau ensure that well records and subsurface data required to be reported in Section 226.56 be made accessible in a database to the public and be accurate to ensure that groundwater is properly protected. The commenter suggests that all new wells should be logged and the electronic logs should be required and incorporated into the database.

This comment is outside the scope of the regulations and relates to the internal procedures for how the Bureau should store information required to be submitted under the regulations and how such information is or can be disseminated to the public. However, Section 226.60(e) already requires the lessee to protect freshwater from contamination and the Bureau will further consider this comment as it considers the development of a Web site for information related to oil and gas operations within Osage County and evaluates the information that could be posted for the benefit of the public consistent with the Freedom of Information Act.

FF. Comments Related to Section 226.57

A commenter suggested that in Section 226.57, minimum setbacks between oilfield activities and boundary lines of leased land, public roads, watering places, and dwellings, granaries, and barns be increased.

This rule did not change Section 226.57 and it remains substantively the same as in the current regulations (previously found at Section 226.33). The Department also found a lack of information submitted in conjunction with this comment justifying the need to have an across the board minimum setback beyond 300 feet of the leased land boundary and 200 feet of public highways, established watering places, dwellings, granaries and barns. Moreover, it is relevant to note that Section 226.57 provides minimum setbacks and the lessee and surface owner may further discuss the need for an increase in the setback in any particular circumstance.

GG. Comments Related to Section 226.59

A commenter suggested that the Bureau should undertake a comprehensive review and update of its freshwater data/maps and, until then, surface casing should be required to a depth 200 feet below that recommended by the Bureau's current data/maps.

This comment does not relate directly to the rule and no change to the rule is necessary. Section 226.59 specifies that the lessee must take certain precautions to prevent damage or pollution to freshwater. The Department agrees that the Bureau should endeavor to work with the best available data regarding freshwater data and maps applicable in Osage County and it will work with the United States Geological Survey and EPA to ensure that it has the most up to date information. The Bureau must review and approve operations consistent with the best available information it has available and it would be arbitrary to require all surface casings to go to a depth greater than 200 feet irrespective of the data and information available to the Bureau. Instead, Section 226.59 gives the Superintendent broad authority to take necessary steps to protect fresh water or other mineral bearing formations depending on particular circumstances. For example, in some instances depending on the hydrology in a particular area, the Superintendent may require surface casing to a depth greater than 200 feet. In other areas within Osage County, the hydrology may be such that freshwater and other mineral bearing formations are adequately protected if surface casing are set at a depth less than 200 feet. Nothing in the rule prohibits a person or entity from submitting for consideration by the Superintendent, information relating to the depth of nearby residential water wells that may require setting the depths for a particular well deeper than

shown on the best available maps that the Bureau has on file.

Some commenters suggested that, in Section 226.56(a) and/or 226.59, lessees be mandated to report freshwater well drilling data to the Bureau and the Oklahoma Water Resources Board, that the Bureau require water well testing within 2,000 feet of oil or gas wellbores, and that lessees be required to keep cement well logs for all cement jobs across the freshwater zone.

This rule did not change Section 226.59 and it remains substantively the same (previously found at Section 226.35). Further, Section 226.59 gives the Superintendent broad authority to address these types of concerns on a case by case basis because the regulations allow the Superintendent to take necessary steps to protect fresh water or other mineral bearing formations depending on the particular circumstances.

HH. Comments Related to Section 226.60

A commenter suggested that well control requirements in Section 226.60 are insufficient and that, instead, BLM Onshore Oil and Gas Order No. 2 should be substituted.

No further revision to Section 226.60 is necessary in response to this comment. Section 226.60 was recommended by the Negotiating Rulemaking Committee in an attempt to balance the need to have additional safeguards for maintaining well control and the Committee specifically reviewed and examined BLM rules and procedures. The Department found that that section combines existing language from the regulations with language from BLM regulations governing well control. For example, paragraph (a) is text from the old regulations, but paragraphs (b) through (e) were adopted consistent with BLM regulations regarding well control. The Department believes that these new provisions provide additional protections to ensure well control that have not been in place before in Osage County. Moreover, if appropriate, under Section 226.3, in accordance with the Administrative Procedure Act the Bureau can adopt BLM's Onshore Oil and Gas Order No. 2 in the future.

Several commenters raised concerns regarding the venting of hydrogen sulfide gas at any level, and the flaring of hydrogen sulfide in excess of 10 parts per million. Some of these commenters suggested that if short term flaring must be slowed, the lessee should be required to use the best current flaring technology for the oil and gas industry, and any flaring of natural gas should be done in a manner to eliminate the visibility of the flame and a produced light using a closed-combustion chamber system. Other commenters suggested using current best industry standards for flaring following American Petroleum Institute guidelines and utilizing ''clean burn variable tip flare'' technology.

These comments are adequately addressed in Section 226.60(f) of the rule and no further change in necessary. Section 226.60(f) requires compliance with BLM Onshore Oil and Gas Order No. 6. This Order identifies the Bureau of Land Management's requirements and minimum standards of performance expected from operators when conducting operations involving oil or gas that is known or could reasonably be expected to contain hydrogen sulfide (H2S) or which results in the emission of sulfur dioxide (S02) as a result of flaring H2S. This Order also identifies the gravity of violations, probable corrective action(s), and normal abatement periods. In addition, the Bureau has been working with EPA to develop an Environmental Compliance Manual for Osage County and has received comments from the public to include in that manual best management practices, including best practices for venting and flaring hydrogen sulfide gas.

II. Comments Related to Section 226.62

A commenter suggested that the Department should require more detailed and timely reporting in both the final rule and in OMB-approved forms. This reporting would be offset by the Department requiring routine inspections of all withdrawals from tank batteries and contemporaneous recordation of all of the appropriate data, periodic facility inspection, and spot inspection for compliance. The commenter also recommended that inspections be performed by qualified Bureau officers; that periodic, random, and risk-based inspections be performed; and that the Bureau inspect all oil withdrawals.

The rule contains mechanisms that allow the Bureau to more efficiently perform inspections. For example, in Section 226.62(c), lessees are required to give notice to the Superintendent before a purchaser is notified to remove a tank of oil to allow Bureau employees to perform periodic and random inspections to ensure accountability. In addition, under Section 226.63(c), a lessee must provide 48 hour notice before a lessee calibrates or adjusts gas meters. Osage County is approximately 1.5 million acres and the Bureau cannot inspect all oil withdrawals or be at every gas meter calibration, but the notification system is intended to provide a better system that will enable Bureau employees to plan where they should be on any given day to ensure that field inspections include areas where tanks are ready to be picked up by lessees or meters will be calibrated. The Department has determined that the additional burden on the public of requiring more detail or increased frequency in reporting under the Paperwork Reduction Act is not clearly justified by any potential benefit. To the extent that the commenter suggests that Bureau employees be trained, such comments are outside the scope of the rulemaking. However, the Departmental employees must meet certain qualifications before they are hired by the Bureau and field inspectors are participating in the BLM's PET certification training.

JJ. Comments Related to Section 226.63

Some comments were received suggesting that wells on a lease already have a meter at the well or near the wellhead and requiring installation of meters at other locations is unnecessary.

The Negotiated Rulemaking Committee made the recommendation to adopt the standards in On-Shore Oil and Gas Order 5 because the regulations were too vague and did not provide guidance to lessees for the measurement of gas. This has resulted in lessees utilizing different standards for the measurement of gas, which has caused concern with respect to proper accounting of gas production and proper payment of royalties for gas. Ensuring proper measurement of gas was also an issue in the tribal trust litigation against the United States and was one of the issues that the Committee was tasked with addressing in this rulemaking. Adoption of On-Shore Oil and Gas Order 5, in Section 226.63, now specifies uniform standards consistent with how gas is measured on all other Indian and Federal lands. In particular, On-Shore Oil and Gas Order 5 requires lessees to measure gas on the lease, unit, unit participating area or communitized area and that any measurements at locations off the lease, unit, unit participating area, or communitized area must be approved by the Superintendent. To the extent that a lessee already has installed meters on their lease consistent with On-Shore Oil and Gas Order 5, no changes will be required. However, the Department believes this change is necessary to bring uniformity throughout Osage County in the measurement of gas and ensure that it is fulfilling its trust responsibility to the beneficiaries of the Osage mineral estate.

Some comments were received suggesting that the requirement in Section 226.62(c) to call the Bureau prior to running a tank of oil seems to serve no purpose. It was noted that if the intent is to inspect more runs, then the tribe will need to employ more inspectors, if there is no intent to inspect then this is another futile exercise in useless record keeping.

The requirement that a lessee give notice to the Superintendent before a tank of oil is removed by a purchaser was added by the Negotiated Rulemaking Committee to specifically address concerns that the Bureau needs to more efficiently inspect and monitor operations within Osage County in order to verify accuracy of tank sales. Given that Osage County consists of 1.5 million acres, the Department agrees with the Committee that requiring notice will enable it to better assess where field inspectors need to be on any given day to maximize the number of inspections that can be done, rather than sending out field inspectors to random locations in the hopes of finding tanks that are full and will be picked up, as is the current practice. The Bureau has also created more positions for inspectors within Osage County to address staffing shortfalls. During discussions on this topic in the Negotiated Rulemaking, it was noted that lessees have to make calls to inform a purchaser that a tank is ready and the Department determined that the burden of calling the Bureau in addition to the purchaser seemed minimal.

At least one commenter suggested that if the Bureau wants compliance with the current regulations, it would request more funds to install electronic monitoring of tanks.

This comment is outside the scope of and does not relate to the rulemaking, rather it concerns internal budgetary operations.

KK. Comments Related to Section 226.65

Some commenters noted that importing the requirements for site security plans that the BLM requires on other Indian and Federal lands will be too labor-intensive to afford for small lessees within Osage County.

The Department received numerous comments regarding public safety concerns around well sites from surface owners and found that the site security plan requirements were added by the Committee to specifically address these concerns. Site security plans are not intended to be costly or labor intensive and are generally required for oil and gas operations on all other Indian and Federal lands.

Several commenters noted that in their view, the new requirement for site security plans is duplicative of the SPCC Plans required by the EPA.

The SPCC plans are required by the EPA and are submitted to the EPA only to prevent a spill of oil into navigable waters or shorelines, whereas site security plans are required by the Bureau and submitted for all oil and gas operations to proactively address a multitude of public safety concerns. For these reasons, the site security plans are not duplicative of the SPCC Plans. The site security plans will help promote lessee compliance with EPA's requirement for SPCC plans regarding oil spills, because lessees will have information more readily available from the site security plans to assist them in completing an SPCC Plan.

Some commenters suggested that the requirement in site security plans requiring that all valves have seals is ''ridiculous,'' ''arbitrary'' and ''totally impracticable'' and that lessees can't keep records for six years. Others noted that most lessees don't have the manpower or time to comply with this requirement and it would add costs that could force early abandonment.

No evidence has been presented regarding estimated increased costs in relation to this comment. The United States has a legal obligation to maintain records regarding operations for which it is responsible. The Department must be able to go back for at least six years and collect documents and data related to operations because the statute of limitations for damage claims on behalf of or against the Department is six years. Furthermore, the Department finds it relevant that on all other Indian and Federal lands, the United States requires lessees adhere to minimum site security standards for oil and gas operations. The requirements in Section 226.65 were added in response to concerns from surface owners regarding well site safety, as well as, from the members of the Osage Minerals Council, who were concerned with ensuring accountability of oil and gas production. In response to these concerns, the provisions in Section 226.65(b) were added to provide a minimum standard for ensuring accountability regarding oil and gas operations. The rule is intended to bring Osage County in line with minimum requirements that are used on all other Indian and Federal lands. Section 226.65 mirrors the standard applicable to other Indian and Federal lands for oil and gas operations that is found in the BLM's regulations. In particular the Department finds paragraph (b) addressed concerns from the Osage Minerals Council relating to ensuring that there are uniform safeguards regarding accountability for oil and gas production within Osage County and it provides transparency and ensures that lessees are all following a minimum standard. Additionally, the Department has discovered through the negotiated rulemaking process and public comments that there are genuine concerns regarding well site safety and the new requirement in Section 226.65(c) will help with transparency and ensure that lessees have a uniform standard to comply with and are aware of their responsibilities.

At least one commenter noted that site security plans will not stop stealing in Osage County.

This comment does not suggest any changes to the rule. However, the Department's intended purpose of Section 226.65(b) is to provide a minimum standard to aid in accountability of oil and gas production and Section 226.65(c) adds new protections regarding site security that have not previously been required of all lessees.

Some commenters suggested that surface owners should be consulted regarding site security and proposed site security plans should be included in surface use agreements.

The Osage mineral estate is unique in that the entire subsurface is held in trust by the United States for the benefit of the Osage Tribe. Notwithstanding that, the public, including surface owners, were able to participate in the Negotiated Rulemaking process and the Committee added the site security provisions to the regulations in direct response to surface owner concerns. In addition, the Department has never required surface use agreements in Osage County, but there are provisions for the surface owner to work with the lessees and collect damages for use of surface lands. The Department encourages surface owners and lessees to work together to address issues related to surface lands.

LL. Comments Related to Section 226.66

A commenter suggested that lessees be required to report accidents, fires, theft, vandalism, and environmental accidents to the Superintendent, the surface owner(s), and law enforcement (in case of theft) within one business day of discovery.

In response to this comment, the Department has further revised Section 226.66 (previously numbered 226.41) to require that, in addition to requiring lessees to report fires, theft, and vandalism, lessees also report environmental accidents to the Superintendent and within one business

day after discovery provide notice to local law enforcement agencies and internal company security. The revisions also require the lessee to provide or attempt to provide notice to the surface owner or the current resident/occupant in writing by U.S. mail of any such incidents.

MM. Subpart F (226.67 to 226.70)

One commenter recommended including a requirement that all sums due be paid to the Bureau.

This comment is outside the scope of the regulatory process. The Anti-Deficiency Act, 31 U.S.C. 1341, requires that fees and penalties be transmitted to the United States Treasury. Absent specific legislation to the contrary, the Osage Agency must comply with the Anti-Deficiency Act and remit fees and penalties to the United States Treasury.

Some commenters noted that fines in Subpart F of the Rule should be paid to the shareholder/headright owner and not the Bureau of Indian Affairs.

The Bureau does not keep fines that are collected, but is required to transmit those to the United States Treasury in accordance with the Anti-Deficiency Act.

Some commenters suggested that heavy fines will make Osage a less attractive place.

Fines are not mandatory, but are only imposed when a lease is not operating in accordance with the regulations. Fines are intended to deter violations and encourage lessees to comply with the regulations.

A commenter suggested that a penalty of $1,000/day should be levied for environmental pollution.

The Department has decided not to change the fines and penalties section of the rule and the fines and penalties as stated in the prior regulations remain intact, unless otherwise set forth in a lease. To further encourage lessees to comply with the regulations, the Department has, however, deleted the provision in 226.67 allowing the Osage Minerals Council to waive late fees.

NN. Abandoned Wells

Some comments regarding abandoned wells, abandoned pump-jacks and exposed pipes on land noted that these conditions cause damage and a hazard and stated that the existing requirements to clean-up abandoned wells needs to be enforced.

To the extent that these comments can be addressed by the rule, the Department has further revised Section 226.46 to include a provision requiring lessees to comply with the National Electric Code with regard to the running and maintenance of electrical lines to ensure that minimum standards are required. If surface owners or others have concerns regarding exposed pipes or other health and safety issues they may contact the Bureau through its reporting hotline at 1–855–495–0373. Surface owners can contact OERB at 1–800–664–1301 and consistent with their process, OERB can remediate abandoned well sites in Osage County.

V. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations and provide greater notice and clarity to the public.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to management and administration of the Osage mineral estate.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation, and is written in clear language and contains clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. This rule was developed by negotiated rulemaking with representatives of the affected tribe.

I. Paperwork Reduction Act

This rule includes information collections requiring approval under the

Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. These information collections have not been approved previously because the last update to 25 CFR 226 was prior to amendments to the PRA subjecting these information collection requirements to OMB approval. In the **Federal Register** of August 28, 2013, the Department published the proposed rule and invited comments on the proposed collection of information. The Department submitted the information collection request to the Office of Management and Budget (OMB) for review and approval. The OMB did not approve this collection of information, but instead, filed comment. In filing comment on this collection of information, OMB requested that, before publication of the final rule, the Department provide all comments on the recordkeeping and reporting requirements in the proposed rule, the Department's response to these comments, and a summary of any changes to the information collections. We did not receive any public comments regarding the information collection burden estimates in response to publication of the proposed rule in the **Federal Register**; however, some of the comments on the rule related to information collections in sections 226.65 and 226.66. In response to comments on 226.66, the final rule specifies that reports of theft must occur within one business day of discovery, rather than ''promptly'' and the final rule adds a requirement to notify the surface owner under this section. The new requirement to notify the surface owner resulted in a small increase in the number of responses (14,436, as compared to the proposed estimate of 14,414) and hour burden (21,954, as compared to the proposed estimate of 21,932).

OMB has approved the information collections in this final rule and assigned it OMB Control No. 1076–0180. This approval will expire on 03/31/2018. Questions or comments concerning this information collection should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

OMB Control Number: 1076–0180.

Title: Leasing of Osage Reservation Lands for Oil and Gas Mining, 25 CFR 226.

Brief Description of Collection: This part contains leasing procedures and requirements and rental, production, and royalty requirements for leasing the reservation lands of the Osage Nation for oil and gas mining. The Secretary must perform the information collection requests in this part to obtain the information necessary to complete leasing transactions and monitor leased property. Responses to these information collection requests are required to obtain a benefit (*e.g.,* commercial transactions).

Type of Review: New information collection.

Respondents: Indians, businesses, and tribal authorities.

Number of Respondents: 965.

Frequency of Collection: On occasion.

Estimated Hours per Response: Ranges from 15 minutes to 8 hours (see table below).

Estimated Total Annual Responses: 14,436.

Estimated Total Annual Burden Hours: 21,954.

Non-Hour Cost Burden: $496.

The table showing the burden of the information collection is included below for your information.

Section	Information collection	Respondents	Annual responses	Hourly burden per response	Total annual hourly burden
226.5	Lessee must submit completed lease form	160	160	0.5	80
226.9	Lessee must submit bonds	160	160	0.5	80
226.13	Corporate lessee must submit evidence of its officers' authority to execute papers and a copy of its Articles of Incorporation.	150	150	0.25	*38
226.26, 226.27(a)	Lessee must provide certified monthly reports covering operations and on value of all oil/gas used off premises for development and operation.	700	8,400	0.5	4,200
226.27(b)	Purchaser of oil or gas to furnish statement of gross barrels of oil or gross Mcf of gas sold and sales price per barrel or gross Mcf during the preceding month.	45	540	0.5	270
226.28	Submit agreement to unitize or terminate unitization of oil or gas leases to Secretary.	1	1	1	1
226.29	Submit assignment or transfer of lease to Secretary.	500	500	0.5	250
226.34(b), 226.52	Lessee must submit applications on BIA forms for well drilling, treating, or workover operations, removing casing from well. Application to shut down or plug well, with justification.	600	600	8	4,800
226.36	Lessee must notify and request meeting with surface owners by certified mail, provide copy to Superintendent, and provide info at meeting.	160	160	1	160
226.40, 226.41	Any person claiming an interest in the leased tract or in damages must provide a statement showing the claimed interest.	1	1	1	1
226.43	Drivers must carry documentation showing the amount, origin and intended first purchaser of the oil or gas or marketable product.	60	60	0.5	30
226.45(d)	Lessee must submit a contingency plan, when required.	160	160	5	800

Section	Information collection	Respondents	Annual responses	Hourly burden per response	Total annual hourly burden
226.54	Lessee must keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required, make available for inspection, and maintain for 6 years.	700	700	1	700
226.56	Lessee must keep records of drilling, redrilling, deepening, repairing, treating, plugging or abandonment of all wells and furnish reports as required in manner and method specified by Superintendent.	700	700	1	700
226.56	Lessee must transmit to Superintendent applicable information of completion of operations on any well on BIA forms; a copy of electrical, mechanical or radioactive log, or other types of survey of well bore, and core analysis of well.	700	700	8	5,600
226.56	Upon request, Lessee must furnish plat of wells in manner, form, and method prescribed by Superintendent.	700	700	2	1,400
226.65	Lessee must maintain site security plan, including facility diagram.	700	700	4	2,800
226.66	Lessee must report accidents, fires, vandalism including an estimate of the volume of oil involved and notify surface owner.	22	44	1	44
	Total		14,436		21,954

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. It is categorically excluded from further review under 43 CFR 46.210(i) because these are regulations ''whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process either collectively or case by case.'' No extraordinary circumstances exist that would require greater NEPA review.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 25 CFR Part 226

Indians—lands.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, revises part 226 in Title 25 of the Code of Federal Regulations to read as follows:

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Sec.

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226.2 What requirements govern?

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226.4 What responsibilities does the Superintendent have?
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226.6 How does a lessee surrender a lease?
226.7 What forms of payment are acceptable?
226.8 How do changes in the current regulations impact leases?
226.9 What are the bonding requirements for leases?
226.10 Can the Superintendent increase the amount of the bond required?
226.11 When can the Superintendent release a bond?
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226.13 What information must a corporation submit?

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Rental, Drilling and Production Obligations

226.14 What are the requirements for rental, drilling, and production?
226.15 What are the lessee's obligations regarding drainage?
226.16 What can the Superintendent do when drainage occurs?

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226.17 What is the term of a lease?

Royalty Payments

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226.19 How is the gravity adjustment calculated?
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226.21 Who determines royalty on lost or wasted minerals?
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Unit Leases, Assignments and Related Instruments

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226.47 When can the Superintendent grant easements for wells off leased premises?
226.48 A lessee's use of water.
226.49 What are the responsibilities of an oil lessee when a gas well is drilled and vice versa?
226.50 How is the cost of drilling a well determined?
226.51 What are the requirements for using gas for operating purposes and tribal uses?

Subpart D—Cessation of Operations

226.52 When can a lessee shutdown, abandon, and plug a well?
226.53 When must a lessee dispose of casings and other improvements?

Subpart E—Requirements of Lessees

226.54 What general requirements apply to lessees?
226.55 When must a lessee designate process agents?
226.56 What are the lessee's record and reporting requirements for wells?
226.57 What line drilling limitations must a lessee comply with?
226.58 What are the requirements for marking wells and tank batteries?
226.59 What precautions must a lessee take to ensure natural formations are protected?
226.60 What are a lessee's obligations to maintain control of wells?
226.61 How does a lessee prevent waste of oil and gas and other marketable products?
226.62 How does a lessee measure and store oil?
226.63 How is gas measured?
226.64 When can a lessee use gas for lifting oil?
226.65 What site security standards apply to oil and gas and other marketable product leases?
226.66 What are a lessee's reporting requirements for accidents, fires, theft, and vandalism?

Subpart F—Penalties

226.67 What are the penalties for violations of lease terms?
226.68 What are the penalties for violation of certain operating regulations?

Subpart G—Appeals and Notices

226.69 Who can file an appeal?
226.70 Are the notices by the Superintendent binding?
226.71 Information collection.

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660.

§ 226.1 Definitions.

As used in this part, terms have the meanings set forth in this section.

Authorized representative of an oil lessee, gas lessee, or oil and gas lessee means any person, group, or groups of persons, partnership, association, company, corporation, organization, or agent employed by or contracted with a lessee or any subcontractor to conduct oil and gas operations or provide facilities to market oil and gas.

Avoidably lost means the venting or flaring of produced gas or other marketable product without the prior authorization, approval, ratification, or acceptance of the Superintendent and the loss of produced oil or gas or other marketable product when the Superintendent determines that such loss occurred as a result of:

(1) Negligence on the part of the lessee; or

(2) The failure of the lessee to take all reasonable measures to prevent and/or control the loss; or

(3) The failure of the lessee to comply fully with the applicable lease terms and regulations, applicable orders and notices, or the written orders of the Superintendent; or

(4) Any combination of the foregoing.

Condensate means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

Drainage means the migration of hydrocarbons, inert gases, or associated resources caused by production from other wells.

Gas lessee means any person, firm, or corporation to whom a gas mining lease is made under the regulations in this part, or an authorized representative.

Gas well means any well that:

(1) Produces raw natural gas not associated with crude petroleum oil at the time of production; or

(2) Produces more than 15,000 standard cubic feet of raw natural gas to each barrel of crude petroleum oil from the same producing formation.

Lease means any contract approved by the United States under the Act of June 28, 1906 (34 Stat. 539), as amended, that authorizes exploration for, extraction of, or removal of oil or gas or other marketable product.

Marketable condition means a condition in which lease products are sufficiently free from impurities and otherwise so conditioned that a purchaser will accept them under a sales contract typical for the field or area.

Maximum ultimate economic recovery means the recovery of oil and gas and any other marketable product from leased lands that a prudent lessee could be expected to make from that field or reservoir given existing knowledge of reservoir and other pertinent facts and using common industry practices for primary, secondary or tertiary recovery operations.

Natural gas liquids (NGLs) means those gas plant products consisting of ethane, propane, butane, or heavier liquid hydrocarbons.

Notice to lessees (NTLs) means a written notice issued or adopted by the Superintendent. NTLs implement the regulations in this part and operating orders, and serve as instructions on specific item(s) of importance.

Oil and gas lessee means any person, firm, or corporation to whom an oil and gas mining lease is made under the regulations in this part, or an authorized representative.

Oil lessee means any person, firm, or corporation to whom an oil mining lease is made under the regulations in this part, or an authorized representative.

Oil well means any well that produces one barrel or more of crude petroleum oil for each 15,000 standard cubic feet of raw natural gas.

Onshore oil and gas order means a formal order issued or adopted by the Director of the Bureau of Indian Affairs, which implements and supplements the regulations in this part.

Osage Minerals Council means the duly elected governing body of the Osage Nation or Tribe of Indians of Oklahoma vested with authority to enter into leases or take other actions on oil and gas mining and other marketable products pertaining to the Osage mineral estate.

Other marketable product means a non-hydrocarbon product, including but not limited to helium, nitrogen, and carbon-dioxide, for which there is a market.

Primary term means the basic period of time for which a lease is issued during which the lease contract may be kept in force by payment of rentals.

Production in paying quantities means production from a lease of oil and/or gas of sufficient value to exceed direct operating costs and the cost of lease rentals or minimum royalties.

Raw natural gas or *gas* means gas produced from oil and gas wells,

including all natural gas liquids before any treating or processing.

Secretary means the Secretary of the Interior or the Secretary's authorized representative acting under delegated authority.

Superintendent means the Superintendent of the Osage Agency, Pawhuska, Oklahoma, or the Superintendent's authorized representative acting under delegated authority, or such other person as the Secretary or Superintendent may delegate to fulfill the responsibilities and exercise the authorities under this part.

Surface owner means any person or entity that owns a surface estate within Osage County, irrespective of whether the surface estate is held in fee, restricted fee or trust status.

Waste of oil or gas or other marketable product means any act or failure to act by the lessee that the Superintendent finds was not necessary for proper development and production and that results in:

(1) A reduction in the quantity or quality of oil and gas or other marketable product ultimately producible from a reservoir under prudent and proper operations; or

(2) Avoidable surface loss of oil or gas or other marketable product.

§ 226.2 What requirements govern?

All oil and gas activities or activities related to development of other marketable products conducted in Osage County are subject to:

(a) The regulations in this part;

(b) Lease terms;

(c) Orders of the Superintendent; and

(d) All other applicable laws, regulations, and authorities.

Subpart A—Leasing Procedure

§ 226.3 What orders and notices can BIA issue?

(a) In accordance with applicable laws and regulations, the Bureau of Indian Affairs (BIA), after consultation with the Osage Minerals Council where appropriate, is authorized to:

(1) Issue and make effective in Osage County oil and gas orders or notices to lessees (NTLs); or

(2) Adopt onshore oil and gas orders, NTLs, or related oil and gas regulations issued by the Bureau of Land Management.

(b) Adoptions by the Bureau of Indian Affairs remain in effect according to their terms and cannot be modified by any action of the Bureau of Land Management unless the Director issues further orders to that effect in accordance with the Administrative Procedure Act where applicable.

§ 226.4 What responsibilities does the Superintendent have?

(a) The Superintendent is authorized and directed to:

(1) Approve unitization, communitization, gas storage and other contractual agreements;

(2) Assess compensatory royalty;

(3) Approve suspensions of operations or production, or both;

(4) Approve and monitor lessee proposals for drilling, development or production of oil and gas and any other marketable product;

(5) Perform administrative reviews;

(6) Impose monetary assessments or penalties;

(7) Provide technical information and advice relative to oil and gas and any other marketable product development and operations;

(8) Approve, inspect, and regulate the operations that are subject to the regulations in this part;

(9) Require compliance with lease terms, with the regulations in this title and all other applicable regulations and laws; and

(10) Require that all operations be conducted in a manner which protects natural resources and environmental quality, protects life and property, and results in the maximum ultimate recovery of oil and gas and any other marketable product with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources unless otherwise approved by the Superintendent.

(b) The Superintendent may issue written orders to govern specific lease operations. Before approving operations on a leasehold, the Superintendent must determine that the lease is in effect, that acceptable bond coverage has been provided, and that the proposed plan of operations is sound.

(c) The Superintendent must establish procedures to ensure that each lease site which has a documented history of noncompliance with applicable provisions of law or regulations, lease terms, orders or directives be inspected at least once annually.

§ 226.5 What are the requirements for lease sales and approvals?

(a) The steps in a lease sale are as follows:

(1) A written application, together with any nomination fee, for tracts to be offered for lease shall be filed with the Superintendent.

(2) The Superintendent, with the consent of the Osage Minerals Council, shall publish notices for the sale of oil leases, gas leases, and oil and gas leases to the highest responsible bidder on specific tracts of the unleased Osage mineral estate. The Superintendent may require any bidder to submit satisfactory evidence of his/her good faith and ability to comply with all provisions of the notice of sale.

(3) A successful bidder must deposit with the Superintendent within 5 business days following the sale, a cashier's check, money order, or electronic funds transfer in an amount not less than 25 percent of the cash bonus offered as a guaranty of good faith. Any and all bids are subject to acceptance by the Osage Minerals Council and approval by the Superintendent.

(4) Within 20 days after being notified, the successful bidder must submit to the Superintendent the balance of the bonus, a $75 filing fee, and a completed lease form.

(i) The Superintendent may extend the deadline for submitting the completed lease form, but no extension will be granted for remitting the balance of monies due.

(ii) The deposit will be forfeited for the use and benefit of the Osage mineral estate if any of the following occur:

(A) The bidder fails to pay the full consideration by the required deadline; or

(B) The bidder fails to file the completed lease by the required deadline or extension thereof; or

(C) The lease is rejected, pursuant to subsection 5, through no fault of the Osage Minerals Council or the Superintendent.

(5) The Superintendent may reject a lease made on an accepted bid, upon satisfactory evidence of collusion, fraud, or other irregularity in connection with the notice of sale.

(b) The Superintendent may approve leases made by the Osage Minerals Council in conformity with the notice of sale, regulations in this part, bonds, and other instruments required.

(c) Within 30 calendar days following approval of a lease, the Superintendent shall post at the Agency, a legal description of the mineral estate that was leased.

(d) Prior to approval by the Superintendent, each oil and/or gas lease shall be assessed and evaluated for their environmental impact in accordance with Bureau regulations implementing the National Environmental Policy Act and other applicable laws.

(e) The lessee accepts a lease with the understanding that a mineral not covered by the lease may be leased separately.

(f) No lease, assignment thereof, or interest therein will be approved to any employee or employees of the

Government and no such employee is permitted to acquire any interest in a corporation or other business entity holding a lease of the Osage mineral estate.

(g) The Osage Minerals Council may utilize the following procedures among others, in entering into a lease:

(1) A lease may be entered into through competitive bidding as outlined in paragraph (a)(2) of this section, negotiation, or a combination of both;

(2) The Osage Minerals Council may request the Superintendent undertake the preparation, advertisement and negotiation of leases; and/or

(3) The Osage Minerals Council may request the Superintendent to provide information regarding the current estimated value of any or all or each of the leases to the Osage Minerals Council based on comparable sales of Federal, Indian, State, and private leases.

(h) The Superintendent may approve any lease made by the Osage Minerals Council.

§ 226.6 How does a lessee surrender a lease?

(a) The lessee may, with the approval of the Superintendent and payment of a $75 filing fee, surrender all or any portion of any lease, have the lease cancelled as to the portion surrendered and be relieved from all future obligations and liabilities.

(b) If the lease, or portion, being surrendered is owned in undivided interests by more than one party, then the following requirements apply:

(1) All parties must join in the application for cancellation;

(2) If the lease has been recorded, then the lessee must execute a release and record the same in the proper office;

(3) Surrender does not entitle the lessee to a refund of the unused portion of rental paid in lieu of development, nor does it relieve the lessee and his or her sureties of any obligation and liability incurred prior to the surrender;

(4) When there is a partial surrender of any lease and the acreage to be retained is less than 160 acres, the surrender is effective only with consent of the Osage Minerals Council and approval of the Superintendent.

(c) The Superintendent cannot approve the surrender or partial surrender of a lease until a determination has been made that all wells have either been properly plugged and abandoned, and/or the future legal liability for plugging and abandoning wells within the lease or partial lease to be surrendered has been assumed in writing by another financially responsible party.

§ 226.7 What forms of payment are acceptable?

Sums due under a lease contract and/or the regulations in this part must be paid in the manner and method specified by the Superintendent, unless otherwise specified in these regulations. Such sums constitute a prior lien on all equipment and unsold oil on the leased premises.

§ 226.8 How do changes in the current regulations impact leases?

Leases issued pursuant to this part are subject to the current regulations of the Secretary, all of which are made a part of such leases: Provided, that no amendment or change of such regulations made after the approval of any lease operates to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties and approved by the Superintendent.

§ 226.9 What are the bonding requirements for leases?

Lessees shall furnish surety bonds or personal bonds acceptable to the Superintendent as follows:

(a) The per-well ''Bonding Amount'' shall be $5,000.

(b) A surety bond or personal bond equal to the Bonding Amount must be filed at the time an Application for Permit to Drill is approved and/or the lessee acquires liability for existing wells on a lease.

(c) A lessee must at all times maintain on file with the Superintendent surety bonds and/or personal bonds in an amount equal to the Bonding Amount times the number of wells on the lessee's leases, up to a maximum of 25 wells.

(d) To meet the requirements of this section, a surety bond must be issued by a qualified surety company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(e) Personal bonds must be accompanied by at least one of the following:

(1) A certificate of deposit issued by a financial institution, the deposits of which are federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate must explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party.

(2) A cashier's check.

(3) A certified check.

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities must be accompanied by a proper conveyance to the Superintendent of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease.

(5) An irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Superintendent as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease. Letters of credit are subject to the following conditions:

(i) The letter of credit must be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit must be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given must be collected by the Superintendent if not replaced by other suitable bond or letter of credit at least 30 calendar days before its expiration date;

(iii) The letter of credit must be payable to the Superintendent upon demand, in part or in full, upon receipt from the Superintendent of a notice of attachment stating the basis therefor, *e.g.,* default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit must be at least 1 year following the date it is filed; and

(v) The letter of credit must contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the Superintendent at least 90 calendar days prior to the originally stated or any extended expiration date.

(f) In lieu of a surety or personal bond required under this section, a bond in the penal sum of $150,000 may be filed with the Superintendent for full nationwide coverage of all leases to which the Lessee is or may become a party.

§ 226.10 Can the Superintendent increase the amount of the bond required?

(a) The Superintendent may require an increase in the amount of any bond in appropriate circumstances, including, but not limited to, a history of previous violations, uncollected royalties due, or when the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the Superintendent.

(b) The increase in bond amount may be to any level specified by the Superintendent, but in no circumstances shall it exceed the total of the estimated costs of plugging and reclamation, the amount of uncollected royalties due, plus the amount of monies owed to the lessor due to previous violations remaining outstanding.

§ 226.11 When can the Superintendent release a bond?

Within 45 calendar days of receiving written notice from a lessee that a well has been plugged or a lease has expired, the Superintendent must release the bond upon confirming that:

(a) The well has been properly plugged and the well site has been reclaimed, or the lease site has been reclaimed;

(b) All property has been removed (unless otherwise agreed to in writing by the surface owner).

§ 226.12 What forms are made a part of the regulations?

Leases, assignments, and supporting instruments must be in the form prescribed by the Secretary, and such forms are hereby made a part of the regulations.

§ 226.13 What information must a corporation submit?

(a) If the applicant for a lease is a corporation, it must file evidence of authority of its officers to execute papers; and with its first application it must also file a certified copy of its Articles of Incorporation and, if foreign to the State of Oklahoma, evidence showing compliance with the corporation laws thereof.

(b) Whenever deemed advisable, the Superintendent may require a corporation to file any additional information necessary to carry out the purpose and intent of the regulations in this part, and such information must be furnished within a reasonable time.

Subpart B—Rental, Production and Royalty

Rental, Drilling and Production Obligations

§ 226.14 What are the requirements for rental, drilling, and production?

(a) Oil leases, gas leases, and combination oil and gas leases. Unless the lessee completes and places in production a well producing and selling oil and/or gas in paying quantities on the land embraced within the lease within 12 months from the date of approval of the lease, or as otherwise provided in the lease terms, or 12 months from the date the Superintendent consents to drilling on any restricted homestead selection, the lease will terminate unless rental at the rate of not less than $3 per acre for an oil or gas lease, or not less than $6 per acre for a combination oil and gas lease, is paid at the beginning of the first year of the lease.

(1) The lease may also be held for the remainder of its primary term without drilling upon payment of the specified rental annually in advance, commencing with the second lease year.

(2) The lease will terminate as of the due date of the rental unless such rental is received by the Superintendent on or before said date.

(3) The completion of a well producing in paying quantities will, for so long as such production continues, relieve the lessee from any further payment of rental, except that, should such production cease during the primary term the lease may be continued only during the remaining primary term of the lease by payment of advance rental which will be due on the next anniversary date of the lease. Rental must be paid on the basis of a full year and no refund will be made of advance rental paid in compliance with the regulations in this part.

(b) The Superintendent may, with the consent of and under terms approved by the Osage Minerals Council, grant an extension of the primary term of a lease on which actual drilling of a well has commenced within the term thereof, or for the purpose of enabling the lessee to obtain a market for his/her oil and/or gas production.

(c) Irrespective of whether the lessee has drilled or paid rental, the Superintendent in his/her discretion may order further development of any leased acreage or a specific horizon in any lease term if, in his/her opinion, a prudent lessee would conduct further development. A prudent lessee will diligently develop the minerals underlying the leasehold. The Osage Minerals Council has the right to request a determination of whether there is diligent development by the Superintendent as to any lease and may submit any materials or analysis to support its request. Upon receipt of a request, the Superintendent will evaluate the request and may require additional information be submitted by the lessee and the Osage Minerals Council before making a final determination.

(d) If the lessee refuses to comply with an order by the Superintendent to diligently develop its leasehold as a result of a determination under paragraph (c) of this section, the refusal will be considered a violation of the lease terms and said lease will be terminated as to the acreage or horizon the further development of which was ordered, after any appeal of an order. The Superintendent will promptly notify the lessee of such termination.

(e) Except for a lease during its primary term for which rental payment has been paid, a lease that does not produce in paying quantities for 120 consecutive calendar days is thereby terminated by operation of law, effective immediately. The Superintendent will notify the lessee of such termination.

(1) The Superintendent has the authority before termination to approve in writing a temporary suspension of operations tolling the 120-day period for a specified number of days, due to force majeure, other hardship, or other extenuating circumstance.

(2) Any request for a temporary suspension of operations must be made in writing to the Superintendent at least 20 calendar days prior to the expiration of the 120-day period in which the lease has not produced in paying quantities.

(3) The Superintendent, for good cause, may extend in writing the time of any temporary suspension of operations.

(4) The Superintendent must provide a copy of any decision under this paragraph (e) to the Osage Minerals Council at the same time it is delivered to the lessee.

(f) Whenever the Osage Minerals Council identifies any lease that has terminated or may be subject to termination for any reason, the Osage Minerals Council has the right to request in writing appropriate action by the Superintendent, including but not limited to the issuance of a notice of termination to the lessee, and may submit any materials or analysis in support of its request. Upon receipt of such a request, within 90 calendar days the Superintendent must either take the requested action or issue a written decision responsive to the request.

(g) The Superintendent may impose restrictions as to time of drilling and rate of production from any well or wells when the Superintendent judges these restrictions to be necessary or proper for the protection of the natural resources of the leased land and the interests of the Osage mineral estate. The Superintendent may consider, among other things, Federal and Oklahoma laws regulating either drilling or production.

(h) If a lessee holds both an oil lease and a gas lease covering the same acreage, such lessee is subject to the provisions of this section as to both the oil lease and the gas lease.

§ 226.15 What are the lessee's obligations regarding drainage?

(a) Where lands in any leases are being drained of their oil or gas content by wells outside the lease, the lessee must drill or modify and produce all wells necessary to protect the leased lands from drainage within a reasonable time after the earlier of when the lessee knew or should have known of the drainage. In lieu of drilling or modifying necessary wells, the lessee may, with the consent of the Superintendent, pay compensatory royalty for drainage that has occurred or is occurring.

(b) Actions under paragraph (a) of this section are not required if the lessee proves to the Superintendent that when it first knew or had constructive notice of drainage it could not produce a paying quantity of oil or gas from a protective well on the lease for a reasonable profit above the cost of drilling, completing and operating the protective well.

(c) A lessee has constructive notice that drainage may be occurring when well completion or first production reports for the draining well are publicly available, or, if the lessee operates or owns any interest in the draining well or lease, upon completion of drill stem, production, pressure analysis, or flow tests of the draining well.

(d) If a lessee assigns its interest in a lease or transfers its operating rights, it is liable for drainage that occurs before the date the assignment or transfer is approved by the Superintendent. Any lessee who acquires an interest in a lease on which the Superintendent has determined that the assignor was required to take action under paragraph (a) of this section is liable for paying compensatory royalties associated with production occurring on and after the date the assignment or transfer is approved by the Superintendent.

§ 226.16 What can the Superintendent do when drainage occurs?

(a) The Superintendent may send a demand letter by certified mail, return receipt requested, or personally serve the lessee with notice, if the Superintendent believes that drainage is occurring. However, the lessee's responsibility to take protective action arises when it first knew or had constructive notice of the drainage, even when that date precedes the demand letter.

(b) Since the time required to drill and produce a protective well varies according to the location and conditions of the oil and gas reservoir, the Superintendent will determine this on a case-by-case basis. The Superintendent will consider several factors, including, but not limited to:

(1) The time required to evaluate the characteristics and performance of the draining well;

(2) Rig availability;

(3) Well depth;

(4) Required environmental analysis;

(5) Special lease stipulations that provide limited time frames in which to drill; and

(6) Weather conditions.

(c) If the Superintendent determines that a lessee did not take protective action in a timely manner, the lessee will owe compensatory royalty for the period of the delay.

(d) The Superintendent will assess compensatory royalty beginning on the first day of the month following the earliest reasonable time the lessee should have taken protective action and continuing until:

(1) The lessee drills sufficient economic protective wells and the wells remain in continuous production;

(2) The draining well stops producing; or

(3) The lessee relinquishes its interest in the lease.

Lease Term

§ 226.17 What is the term of a lease?

Leases issued under this part are for a primary term as established by the Osage Minerals Council, approved by the Superintendent, and so stated in the notice of sale of such leases and so long thereafter as the minerals specified are produced in paying quantities.

Royalty Payments

§ 226.18 What is the royalty rate for oil?

(a) The lessee must deliver to the Superintendent a royalty on production removed or sold from the lease, that proportion specified in the notice of sale (but not less than 20 percent) of the amount or value of the oil determined under paragraph (b) of this section.

(b) Unless the Osage Minerals Council, with approval of the Superintendent, elects to take the royalty in kind, the settlement value per barrel is the greater of:

(1) The average NYMEX daily price of oil at Cushing, Oklahoma, for the month in which the produced oil was sold, adjusted for gravity using the scale applicable under § 226.19. The applicable average NYMEX daily price of oil at Cushing, Oklahoma and gravity adjustment scale will be available from the Superintendent upon request, on or before the fifth day of the month following production; or

(2) The actual selling price for the transaction as adjusted for gravity.

(c) Should the lessor, with approval of the Secretary, elect to take the royalty in kind, the lessee must furnish free storage for royalty oil for a period not to exceed 60 calendar days from date of production after notice of such election.

§ 226.19 How is the gravity adjustment calculated?

(a) The gravity adjustment of Average Daily NYMEX Price of oil at Cushing, Oklahoma under § 226.18(b)(1) is a deduction from the price per barrel, as follows:

If the gravity of the oil is . . .	the rate is . . .	for each . . .
(1) At or between 40.0 and 44.9 degrees	zero.	
(2) At or between 35.0 and 39.9 degrees	$0.02	degree or fraction thereof below 40.0.
(3) Below 35.0 degrees	$0.10 plus an additional $0.015	one-tenth of one degree below 35.0.
(4) Above 44.9 degrees	$0.015	for each one-tenth of one degree above 44.9.

(b) The Superintendent may, on or before the fifth day of the month following production, publish a gravity adjustment scale for oil of gravity below 40.0 degrees or above 44.9 degrees that supersedes this paragraph, but only if the Superintendent determines, based on substantial evidence, that market conditions so warrant.

§ 226.20 How is the royalty on gas calculated?

(a) All gas removed from the lease from which it is produced must be metered before removal unless otherwise approved by the Superintendent and be subject to a royalty of not less than 20 percent of the gross proceeds of the gas. Unless the Osage Minerals Council, with approval of the Superintendent, elects to take the royalty in kind, gross proceeds must be

calculated under paragraph (b) of this section; except that the Superintendent may direct (and the Osage Minerals Council may request that the Superintendent direct) any lessee, upon no less than 30 calendar days notice, to calculate gross proceeds at the higher royalty value of paragraph (b) or paragraph (c) of this section.

(b) Under this paragraph, gross proceeds of the gas must be determined by multiplying the measured volume of gas at the well (Mcf), times the heating volume of the gas (MMBtu/Mcf), times the index price of the gas ($/MMBtu) for Oklahoma Zone 1 published by the Department of the Interior's Office of Natural Resources Revenue. If that Monthly Index Price ceases to be published and/or is not otherwise available, the price must be calculated in a comparable manner to be determined by the Superintendent. The heating value of the gas shall be calculated in accordance with American Petroleum Institute MPMS Chapter 14, Section 5, and shall be reported under the following conditions: Dry (no water vapor), real, gross, and adjusted pressure of 14.73 psi and a temperature of 60 degrees Fahrenheit. If any lessee supplies gas produced from one lease for operation and/or development of any other lease, including another lease held by the same lessee, the royalty calculated under this section must be paid on all gas so used.

(c) Under this paragraph, gross proceeds of the gas will be 100 percent of the actual proceeds from sales of all residue gas produced from the lease and one hundred percent of the actual proceeds from sales of all natural gas liquids produced from the lease minus the actual, reasonable cost of processing not to exceed 50 percent of the actual sales value of the natural gas liquids (including drip condensate). If the actual reasonable cost of processing cannot be obtained, upon approval by the Superintendent, the lessee may determine such cost in accordance with the alternative methodology and procedures in 30 CFR 1206.180(a) or (b). No other deductions of any kind, whether monetary or volumetric or otherwise, for any purpose, including but not limited to compression, dehydration, gathering, treating, or transportation are allowed.

§ 226.21 Who determines royalty on lost or wasted minerals?

Royalty is due on all oil and gas wasted or avoidably lost, the volume and quality of which will be determined by the Superintendent after taking into consideration information provided by the lessee, but resolving all doubts about volume and quality in favor of the lessor.

§ 226.22 What is the minimum royalty payment for all leases?

Minimum royalty will be owed in the event the royalty paid from producing leases during any year is less than the annual rental specified for the lease. Minimum royalty is due and payable at the end of the lease year in an amount equal to the annual rental less the amount paid in royalty on production.

(a) After the primary term, the lessee must submit with his/her payment evidence that the lease is producing in paying quantities.

(b) The Superintendent is authorized to determine whether the lease is actually producing in paying quantities or has terminated for lack of such production.

(c) Payment for any underpayment not made within the time specified is subject to a late charge at the rate of not less than 1½ percent per month for each month or fraction thereof until paid, or such other rate as may be set by the Superintendent after consultation with the Osage Minerals Council.

§ 226.23 What royalty is due on other marketable products?

A royalty on other marketable products must be paid at the rate of not less than 20 percent of the actual sales value of the other marketable products sold, in addition to any other royalty due on oil or gas.

§ 226.24 What purchase options does the Federal Government have?

Any of the executive departments of the United States Government have the option to purchase all or any part of the oil produced from any lease at not less than the price as defined in § 226.18.

§ 226.25 How are royalty payments made?

(a) Royalty payments due may be paid by either the purchaser or the lessee, provided that the lessee must provide a written agreement to the Superintendent if the purchaser has agreed to be the responsible party for making royalty payments.

(b) All payments are due by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, payments are due on the first business day of the succeeding month. All payments must cover the sales of the preceding month.

(c) Failure to make such payments subjects the responsible party as provided in paragraph (a) of this section to a late charge at the rate of not less than 1½ percent for each month or fraction thereof until paid.

§ 226.26 What reports are required to be provided?

The lessee must furnish certified monthly reports covering all operations in a form specified by the Superintendent, whether there has been production or not, indicating therein the total amount of oil, raw natural gas, and other products subject to royalty payment, by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, reports are due on the first business day of the succeeding month.

(a) Reports covering oil production must include the date of each sale of oil, well or lease identity, lessee, purchaser, volume of oil sold, gravity of oil sold, price paid per barrel for the sale, 40-degree price used for the sale, gravity adjustment scale used for the sale, and total amount paid for the sale.

(b) Reports covering gas production must contain the total volume of raw natural gas measured at the well, the BTU value of raw natural gas produced at the well, the periodic gas analysis applicable to the sale, and the total value paid for the raw natural gas, residue gas, natural gas liquids, and condensate.

(c) Report forms must be submitted in .csv (comma separated value) or ASCII format, or such other equivalent format specified by the Superintendent. The Superintendent must specify the method of transmittal. The Superintendent may specify that lessees must submit the reports and information required by this section directly to other agencies within the Department of the Interior, in lieu of the Superintendent.

(d) The Superintendent must provide to the Osage Minerals Council copies of all reports under this section on at least a quarterly basis in the format originally received by the lessee. Upon written request by the Osage Minerals Council, the Superintendent will require lessees to provide to the Osage Minerals Council copies of run tickets.

(e) Failure to remit reports subjects the lessee to further penalties as provided in § 226.67 and § 226.68 and subjects any royalty payment contract or division order to termination.

§ 226.27 Can a lessee enter into royalty payment contracts and division orders?

(a) The lessee may enter into division orders or contracts with the purchasers of oil, gas, or derivatives therefrom that will provide for the purchaser to make payment of royalty in accordance with

§ 226.25. The following requirements apply in these cases:

(1) The division orders or contracts do not relieve the lessee from responsibility for the payment of the royalty should the purchaser fail to pay.

(2) No production may be removed from the leased premises until a division order and/or contract and its terms are approved by the Superintendent:

(3) The Superintendent may grant temporary permission to run oil or gas from a lease pending the approval of a division order or contract.

(4) The lessee must file a certified monthly report and pay royalty on the value of all oil and gas used off the premises for development and operating purposes.

(5) The lessee is responsible for the correct measurement and reporting of all oil and/or gas taken from the leased premises.

(b) The lessee must require the purchaser of oil and/or gas from its lease or leases to furnish the Superintendent, a statement reporting the gross barrels of oil and/or gross Mcf of gas sold and sales price per barrel and/or gross Mcf during the preceding month, by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, statements are due on the first business day of the succeeding month.

Unit Leases, Assignments and Related Instruments

§ 226.28 When is unitization allowed?

The Osage Minerals Council and the lessee or lessees, may, with the approval of the Superintendent, unitize or merge, two or more oil or oil and gas leases into a unit or cooperative operating plan to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof embracing the lands covered by such lease or leases.

(a) The cooperative or unit agreement is subject to the regulations in this part and applicable laws governing the leasing of the Osage mineral estate.

(b) Any agreement between the parties in interest to terminate a unit or cooperative agreement as to all or any portion of the lands included must be submitted to the Superintendent for his/her approval.

(c) Upon approval of unit termination under paragraph (b) of this section, the leases included under the cooperative or unit agreement will be restored to their original terms.

(d) For the purpose of preventing waste and to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof, all oil leases, oil and gas leases, and gas leases issued under this part may be required to join a unit development plan affecting the leased lands by the Superintendent with the consent of the Osage Minerals Council. This plan must adequately protect the rights of all parties in interest, including the Osage mineral estate.

§ 226.29 How are leases assigned?

Leases or any interest therein may be assigned or transferred only with the approval of the Superintendent. The assignee must be qualified to hold such lease under existing rules and regulations and furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof.

(a) The lessee must assign either his/her entire interest in a lease or legal subdivision thereof, or an undivided interest in the whole lease: Provided, however, that the Superintendent may approve an assignment that covers only a portion of a lease with the consent of the Osage Minerals Council. Approval by the Superintendent of a lease assignment or transfer of an interest in a lease or legal subdivision, is subject to the following:

(1) After the Superintendent approves the assignment or transfer, the lessee who made the assignment will continue to be responsible, jointly and severally with the assignee, for lease obligations that accrued before the approval date, whether or not they were identified at the time of the assignment or transfer. This includes paying compensatory royalties for drainage. It also includes responsibility for plugging wells and abandoning facilities that were drilled, installed, or used before the effective date of the assignment or transfer.

(2) The assignee agrees to comply with the terms of the original lease as it applies to the rights that were acquired. Among other obligations, the assignee must plug and abandon all unplugged wells, reclaim the lease site, and remedy all environmental problems in existence that a purchaser exercising reasonable diligence should have known at the time of the transfer. The assignee must also maintain a bond in accordance with these regulations.

(b) If a lease is divided by the assignment of an entire interest in any part, each part will become a separate lease and the assignee is bound to comply with all the terms and conditions of the original lease.

(c) A fully executed copy of the assignment must be filed with the Superintendent within 30 calendar days after the date of execution by all parties. If requested within the 30-day period, the Superintendent may grant an extension of 15 calendar days.

(d) A filing fee of $75 must accompany each assignment.

§ 226.30 Are overriding royalty agreements allowed?

Agreements creating overriding royalties or payments out of production are not considered as an interest in a lease as such term is used in § 226.29. Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Department of the Interior or any agency thereof is not required with respect thereto, but nothing in any such agreement modifies any of the obligations of the lessee under its lease and the regulations in this part. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments.

(a) The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid, will not be considered in justifying the shutdown or abandonment of any well.

(b) Agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to § 226.29.

§ 226.31 When are drilling contracts allowed?

The Superintendent is authorized to approve drilling contracts with a stipulation that such approval does not in any way bind or require the Department to approve subsequent assignments that may be contemplated or provided for in the particular drilling contract approved by the Department. Approval merely authorizes entry on the lease for the purpose of development work.

§ 226.32 When can an oil lease and a gas lease be combined?

A lessee owning both an oil lease and gas lease covering the same acreage is authorized to convert such leases to a combination oil and gas lease.

Subpart C—Operations

§ 226.33 What are the general requirements governing operations?

(a) The lessee must comply with applicable laws and regulations; with the lease terms; and with orders and instructions of the Superintendent. These include, but are not limited to, conducting all operations in a manner that:

(1) Ensures the proper handling, measurement, disposition, and site security of leasehold production;

(2) Protects other natural resources and environmental quality;

(3) Protects life and property; and

(4) Results in maximum ultimate economic recovery of oil and gas and other marketable products with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

(b) The lessee must permit properly identified authorized representatives of the Superintendent to enter upon, travel across, and inspect lease sites and records normally kept on the lease pertinent thereto without advance notice. Inspections normally will be conducted during those hours when responsible persons are expected to be present at the operation being inspected. Such permission must include access to secured facilities on such lease sites for the purpose of making any inspection or investigation for determining whether there is compliance with applicable law, the regulations in this part, and any applicable orders, notices or directives.

(c) For the purpose of making any inspection or investigation, the Superintendent has the same right to enter upon or travel across any lease site as the lessee.

§ 226.34 What requirements apply to commencement of operations on a lease?

(a) No operations are permitted upon any tract of land until a lease covering such tract is approved by the Superintendent. The Superintendent may, however, grant authority to any party under such lease, consistent with the regulations in this part that he or she deems proper, to conduct geophysical and geological exploration work.

(b) The lessee must submit applications on forms to be furnished by the Superintendent and secure approval before:

(1) Well drilling, treating, or workover operations are started on the leased premises.

(2) Removing casing from any well.

(c) The lessee must notify the Superintendent a reasonable time in advance of starting work, of intention to drill, redrill, deepen, plug, or abandon a well.

(d) Prior to approving any operations under this section, the Superintendent will determine whether an environmental assessment or other information is required to comply with applicable laws such as the National Environmental Policy Act. If an environmental assessment is deemed necessary, the Superintendent will notify the lessee that it must submit a draft environmental assessment, which will be reviewed and evaluated by the Superintendent before deciding whether to prepare an Environmental Impact Statement or issue a Finding of No Significant Impact. The Superintendent will also notify the lessee of any other information that must be submitted, such as cultural resources survey reports/archeological surveys when needed to comply with the National Historic Preservation Act and the Secretary's Standards and Guidelines for Archeology and Historic Preservation.

§ 226.35 How does a lessee acquire permission to begin operations on a restricted homestead allotment?

(a) The lessee may conduct operations within or upon a restricted homestead selection only with the written consent of the Superintendent.

(b) If the allottee is unwilling to permit operations on his/her homestead, the Superintendent will cause an examination of the premises to be made with the allottee and lessee or his/her representative. Upon finding that the interests of the Osage mineral estate require that the tract be developed, the Superintendent will endeavor to have the parties agree upon the terms under which operations on the homestead may be conducted.

(c) In the event the allottee and lessee cannot reach an agreement, the matter must be presented by all parties before the Osage Minerals Council, and the Council will make its recommendations. Such recommendations will be considered as final and binding upon the allottee and lessee. A guardian may represent the allottee. Where no one is authorized or where no person is deemed by the Superintendent to be a proper party to speak for a person of unsound mind or feeble understanding, the Principal Chief of the Osage Nation will represent him.

(d) If the allottee or his/her representative does not appear before the Osage Minerals Council when notified by the Superintendent, or if the Council fails to act within 10 calendar days after the matter is referred to it, the Superintendent may authorize the lessee to proceed with operations in conformity with the provisions of his/her lease and the regulations in this part.

§ 226.36 What kind of notice and information is required to be given surface owners prior to commencement of drilling operations?

(a) The lessee must notify or attempt to notify the surface owner in one general written notification sent by certified mail with a copy to the Superintendent that it plans to begin conducting the following activities over the term of its lease: Archeological or biological surveys, or staking of wells.

(b) No operations of any kind may commence until the lessee or its authorized representative meets with the surface owner or his/her representative. The lessee must request the meeting in writing by certified mail and provide a copy of the letter to the Superintendent. Unless waived by the Superintendent or otherwise agreed to between the lessee and surface owner, such meeting must be held at least 10 calendar days prior to the commencement or any operations. At such meeting lessee or its authorized representative must comply with the following requirements:

(1) Indicate the location of the well or wells to be drilled.

(2) Arrange for a route of ingress and egress. Upon failure to agree on a route of ingress and egress, said route will be set by the Superintendent after the Superintendent has notified or attempted to notify both the surface owner and lessee in writing of their opportunity to meet and submit information for consideration before a final decision is made.

(3) Furnish to said surface owners the name and address of the party or representative upon whom the surface owner must serve any claim for damages which he may sustain from mineral development or operations, and as to the procedure for settlement thereof as provided in § 226.41.

(4) Where the drilling is to be on restricted land, the lessee or its authorized representative must meet with and provide the information in paragraphs (b)(1)–(3) of this section to the Superintendent.

(5) When the surface owner or its representative cannot be contacted at the last known address or has not accepted a meeting request within 30 calendar days of receipt of the request, the Superintendent is required to authorize lessee, in writing, to proceed with operations.

§ 226.37 How much of the surface may a lessee use?

The lessee or its authorized representative has the right to use so much of the surface of the land within the Osage mineral estate as may be reasonable for operations and marketing. This includes, but is not limited to the right to, lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing, and the right-of-way for ingress and egress to any point of operations.

(a) If the lessee and surface owner are unable to agree as to the routing of pipelines, electric lines, etc., said routing will be set by the Superintendent after the Superintendent has notified or attempted to notify both the surface owner and lessee in writing of their opportunity to meet and submit information for consideration before a final decision is made.

(b) The right to use water for lease operations is established by § 226.48.

(c) The lessee must conduct its operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any avoidable nuisance to be maintained on the premises under its control.

§ 226.38 What commencement money must the lessee pay to the surface owner?

(a) Before commencing actual exploration and/or development, the lessee must pay or tender to the surface owner commencement money in the amount of $25 per shot hole for explosive source (for the acquisition of Single Fold (100 per cent Seismic)), or $400 per linear mile for surface source data acquisition. For the purpose of conducting a 3D seismic survey, the lessee must pay commencement money in the amount of $10 per acre occupied during the time the survey is conducted. The lessee must also pay commencement money in the amount of $2500 for each well.

(1) After payment of commencement money the lessee will be entitled to immediate possession of the drilling site.

(2) Commencement money will not be required for the redrilling of a well which was originally drilled under the current lease.

(3) A drilling site must be held to the minimum area essential for operations and not exceed one and one-half acres in area unless authorized by the Superintendent.

(4) Commencement money is a credit toward the settlement of the total damages.

(5) Acceptance of commencement money by the surface owner does not affect its right to compensation for damages as described in § 226.40, occasioned by the drilling and completion of the well for which it was paid.

(6) Since actual damage to the surface from operations cannot necessarily be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

(b) Where the surface is restricted land, commencement money must be paid to the Superintendent for the landowner. All other surface owners must be paid or tendered such commencement money directly.

(1) Where such surface owners are neither residents of Osage County, nor have a representative located therein, such payment must be made or tendered to the last known address of the surface owner at least 5 calendar days before commencing drilling operation on any well.

(2) If the lessee is unable to reach the owner of the surface of the land for the purpose of tendering the commencement money or if the owner of the surface of the land refuses to accept the same, the lessee must deposit such amount with the Superintendent by check payable to the Bureau of Indian Affairs. The Superintendent must thereupon advise the owner of the surface of the land by mail at his/her last known address that the commencement money is being held for payment to him upon his/her written request.

§ 226.39 What fees must lessee pay to a surface owner for tank siting?

The lessee must pay fees for each tank sited at the rate of $500 per tank, except that:

(a) No payment is due for a tank temporarily set on a well location site for drilling, completing, or testing; and

(b) The sum to be paid for a tank occupying an area more than 2500 square feet will be agreed upon between the surface owner and lessee or, on failure to agree, the same will be determined by arbitration as provided by § 226.41.

§ 226.40 What is a settlement of damages claimed?

(a) The lessee or its authorized representative or geophysical permittee must pay for all damages to growing crops, any improvements on the lands, and all other surface damages as may be occasioned by operations. Commencement money will be credited toward the settlement of the total damages occasioned by the drilling and completion of the well for which it was paid. Such damages must be paid to the owner of the surface and by him apportioned among the parties interested in the surface, whether as owner, surface lessee, or otherwise, as the parties may mutually agree or as their interests may appear. If the lessee or its authorized representative and surface owner are unable to agree concerning damages, the same will be determined by arbitration as provided by § 226.41.

(b) Surface owners must notify their lessees or tenants of the regulations in this part and of the necessary procedure to follow in all cases of alleged damages. If so authorized in writing, surface lessees or tenants may represent the surface owners.

(c) In settlement of damages on restricted land, all sums due and payable must be paid to the Superintendent for credit to the account of the Indian entitled thereto. The Superintendent will make the apportionment between the Indian landowner or owners and surface lessee of record.

(d) Any person claiming damages to an interest in any leased tract, must furnish to the Superintendent a statement in writing showing its claimed interest. Failure to furnish such statement will constitute a waiver of notice and estop said person from claiming any part of such damages after the same has been disbursed.

§ 226.41 What is the procedure for settlement of damages claimed?

Where the surface owner or his/her lessee suffers damage due to the oil and gas operations and/or marketing of oil or gas by lessee or its authorized representative, the procedure for recovery is as follows:

(a) The party or parties aggrieved will, as soon as possible after the discovery of any damages, serve written notice to lessee or its authorized representative. The written notice must describe the nature and location of the alleged damages, the date of occurrence, the names of the party or parties causing said damages, and the amount of damages. This requirement does not limit the time within which action may be brought in the courts to less than the 90-day period allowed by section 2 of the Act of March 2, 1929 (45 Stat. 1478, 1479).

(b) If the alleged damages are not adjusted at the time of such notice, the lessee or its authorized representative must try to adjust the claim with the party or parties aggrieved within 20 calendar days from receipt of the notice. If the claimant is the owner of restricted property and a settlement results, a copy of the settlement agreement must be submitted to the Superintendent for approval. If the settlement agreement concerning the restricted property is approved by the Superintendent, payment must be made to the Superintendent for the benefit of said claimant.

(c) If the parties fail to adjust the claim within the 20 calendar days

specified, then within 10 calendar days thereafter each of the interested parties must appoint an arbitrator who immediately upon their appointment must agree upon a third arbitrator. If the two arbitrators fail to agree upon a third arbitrator within 10 calendar days, they must immediately notify the parties in interest. If said parties cannot agree upon a third arbitrator within 5 calendar days after receipt of such notice, the Superintendent will appoint the third arbitrator.

(d) As soon as the third arbitrator is appointed, the arbitrators must meet; hear the evidence and arguments of the parties; and examine the lands, crops, improvements, or other property alleged to have been injured. Within 10 calendar days they will render their decision as to the amount of the damage due. The arbitrators will be disinterested persons. The fees and expenses of the third arbitrator must be borne equally by the claimant and the lessee or its authorized representative. Each lessee or its authorized representative and claimant must pay the fee and expenses for the arbitrator appointed by him.

(e) When an act of an oil or gas lessee or its authorized representative results in injury to both the surface owner and his/her lessee, the parties aggrieved must join in the appointment of an arbitrator. Where the injury complained of is chargeable to more than one oil or gas lessee, or its authorized representative, all such chargeable lessees or representatives must join in the appointment of an arbitrator.

(f) Any two of the arbitrators may make a decision as to the amount of damage due. The decision must be in writing and served forthwith upon the parties in interest. Each party has 90 calendar days from the date the decision is served in which to file an action in a court of competent jurisdiction. If no such action is filed within said time and the award is against the lessee or its authorized representative, he/she must pay the same, together with interest at an annual rate established for the Internal Revenue Service from date of award, within 10 calendar days after the expiration of said period for filing an action.

(g) The lessee or its authorized representative must file with the Superintendent a report on each settlement agreement, setting out the nature and location of the damage, date, and amount of the settlement, and any other pertinent information.

§ 226.42 What are a lessee's obligations for production?

(a) The lessee must put into marketable condition at no cost to the lessor, all oil, gas, and other marketable products produced from the leased land.

(b) Where oil accumulates in a pit, such oil must either be:

(1) Recirculated through the regular treating system and returned to the stock tanks for sale; or

(2) Pumped into a stock tank without treatment and measured for sale in the same manner as from any sales tank in accordance with applicable orders and notices.

(c) In the absence of prior approval from the Superintendent, no oil may be pumped into a pit except in an emergency. Each such pumping occurrence must be reported to the Superintendent and the oil promptly recovered in accordance with applicable orders and notices.

§ 226.43 What documentation is required for transportation of oil or gas or other marketable product?

(a) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, must carry on his/her person, in his/her vehicle, or in his/her immediate control, documentation showing at a minimum; the amount, origin, and intended first purchaser of the oil.

(b) Any person engaged in transporting any oil or gas or other marketable product by pipeline produced from or allocated to any lease site, must maintain documentation showing, at a minimum, the amount, origin, and intended first purchaser of such oil or gas or other marketable product.

(c) On any lease site, any authorized representative of the Superintendent who is properly identified may stop and inspect any motor vehicle that he/she has probable cause to believe is carrying oil produced from or allocated to any such lease site, to determine whether the driver possesses proper documentation for the load of oil.

(d) Any authorized representative of the Superintendent who is properly identified and who is accompanied by an appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he/she has probable cause to believe the vehicle is carrying oil produced from or allocated to a lease site, to determine whether the driver possesses proper documentation for the load of oil.

§ 226.44 What are a lessee's obligations for preventing pollution?

(a) All lessees, contractors, drillers, service companies, pipe pulling and salvaging contractors, or other persons, must at all times conduct their operations and drill, equip, operate, produce, plug, and abandon all wells drilled for oil or gas, service wells or exploratory wells (including seismic, core, and stratigraphic holes) in a manner that will prevent pollution and the migration of oil, gas, salt water, or other substance from one stratum into another, including any fresh water bearing formation.

(b) Pits for drilling mud or deleterious substances used in the drilling, completion, recompletion, or workover of any well must be constructed and maintained to prevent pollution of surface and subsurface fresh water. These pits must be enclosed with a fence of at least four strands of barbed wire, or an approved substitute, stretched taut to adequately braced corner posts, unless the surface owner, user, or the Superintendent gives consent to the contrary. Immediately after completion of operations, pits must be emptied, reclaimed, and leveled unless otherwise requested by surface owner or user.

(c) Drilling pits must be adequate to contain mud and other material extracted from wells and must have adequate storage to maintain a supply of mud for use in emergencies.

(d) No earthen pit, except those used in the drilling, completion, recompletion or workover of a well, may be constructed, enlarged, reconstructed or used without approval of the Superintendent. Unlined earthen pits may not be used for the storage of salt water or other deleterious substances.

(e) Deleterious fluids other than fresh water drilling fluids used in drilling or workover operations, which are displaced or produced in well completion or stimulation procedures, including, but not limited to, fracturing, acidizing, swabbing, and drill stem tests, must be collected into a pit lined with plastic of at least 30 mil or a metal or fiberglass tank and maintained separately from above-mentioned drilling fluids to allow for separate disposal. These pits or tanks must be enclosed with a fence of at least four strands of barbed wire, or an approved substitute, stretched taut to adequately braced corner posts, unless the surface owner or the Superintendent gives consent to the contrary. Immediately after completion of operations, tanks must be removed and any pits must be emptied, reclaimed, and leveled unless otherwise requested by surface owner.

§ 226.45 What are a lessee's other environmental responsibilities?

(a) The lessee must conduct operations in a manner which protects the mineral resources, other natural resources, and environmental quality. The lessee must comply with the pertinent orders of the Superintendent and other standards and procedures as set forth in the applicable laws, regulations, lease terms and conditions, and the approved drilling plan or subsequent operations plan.

(b) The lessee must exercise due care and diligence to assure that leasehold operations do not result in undue damage to surface or subsurface resources or surface improvements.

(1) All produced water must be disposed of by injection into the subsurface, in approved pits, or by other methods which have been approved by the Superintendent.

(2) Upon the conclusion of operations, the lessee must reclaim the disturbed surface in a manner approved or prescribed by the Superintendent.

(c) All spills or leakages of oil, gas, other marketable products, produced water, toxic liquids, or waste materials, blowouts, fires, personal injuries, and fatalities must be reported by the lessee to the Superintendent as soon as discovered, but not later than the next business day.

(1) The lessee must exercise due diligence in taking necessary measures, subject to approval by the Superintendent, to control and remove pollutants and to extinguish fires.

(2) A lessee's compliance with the requirements of the regulations in this part does not relieve the lessee of the obligation to comply with other applicable laws and regulations.

(d) When required by the Superintendent, a contingency plan must be submitted describing procedures to be implemented to protect life, property, and the environment.

(e) The lessee's liability for damages to third parties is governed by applicable law.

§ 226.46 What safety precautions must a lessee take?

The lessee must perform operations and maintain equipment in a safe and workmanlike manner, including compliance with National Electrical Code for the installation, running, maintenance and use of all electric lines. The lessee must take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property. Such precautions do not relieve the lessee of the responsibility for compliance with other pertinent health and safety requirements under applicable laws or regulations.

§ 226.47 When can the Superintendent grant easements for wells off leased premises?

The Superintendent, with the consent of the Osage Minerals Council, may grant commercial and noncommercial easements for wells off the leased premises to be used for purposes associated with oil and gas production; provided that the Superintendent notifies or attempts to notify both the surface owner and lessee in writing of their opportunity to meet with and submit information for consideration before a final decision is made. Rents payable to the Osage mineral estate for such easements must be in an amount agreed to by Grantee and the Osage Minerals Council, subject to the approval of the Superintendent. The Grantee is responsible for all damages resulting from the use of such wells and settlement for any damages must be made as provided in § 226.41.

§ 226.48 A lessee's use of water.

The lessee or his/her contractor may, with the approval of the Superintendent, use water from streams and natural water courses to the extent that such use does not diminish the supply below the requirements of the surface owner from whose land the water is taken. Similarly, the lessee or his/her contractor may use water from reservoirs formed by the impoundment of water from such streams and natural water courses, if such use does not exceed the quantity to which they originally would have been entitled had the reservoirs not been constructed. The lessee or his/her contractor may install necessary lines and other equipment within the Osage mineral estate to obtain such water. Any damage resulting from such installation must be settled as provided in § 226.41.

§ 226.49 What are the responsibilities of an oil lessee when a gas well is drilled and vice versa?

Prior to drilling, an oil or gas lessee must notify the other lessees of its intent to drill. When an oil lessee in drilling a well encounters a formation or zone having indications of possible gas production, or the gas lessee in drilling a well encounters a formation or zone having indication of possible oil production, the lessee must immediately notify the other lessee and the Superintendent. The lessee drilling the well must obtain all information that a prudent lessee would utilize to evaluate the productive capability of such formation or zone.

(a) Gas well to be turned over to gas lessee. If an oil lessee drills a gas well, it must, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the gas lessee and the Superintendent.

(1) If the gas lessee does not, within 45 calendar days after receiving notice and determining the cost of drilling, elect to take over such well and reimburse the oil lessee the cost of drilling, including all damages paid and the cost in-place of casing, tubing, and other equipment, the oil lessee must immediately confine the gas to the original stratum. The disposition of such well and the production therefrom will then be subject to the approval of the Superintendent.

(2) If the oil lessee and gas lessee cannot agree on the cost of the well, the Superintendent will apportion the cost between the oil and gas lessees.

(b) Oil well to be turned over to oil lessee. If a gas lessee drills an oil well, then it must immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the Superintendent.

(1) If the oil lessee does not, within 45 calendar days after receipt of notice and cost of drilling, elect to take over the well, it must immediately notify the gas lessee. From that point, the Superintendent must approve the disposition of the well, and any gas produced from it.

(2) If the oil lessee chooses to take over the well, it must pay to the gas lessee:

(i) The cost of drilling the well, including all damages paid; and

(ii) The cost in place of casing and other equipment.

(3) If the oil lessee and the gas lessee cannot agree on the cost of the well, the Superintendent will apportion the cost between the oil and gas lessees.

(c) Lands not leased. If a gas lessee drills an oil well upon lands not leased for oil purposes or vice versa, the Superintendent may, until such time as said lands are leased, permit the lessee who drilled the well to operate and market the production therefrom. When said lands are leased, the lessee who drilled and completed the well must be reimbursed by the oil or gas lessee for the cost of drilling said well, including all damages paid and the cost of in-place casing, tubing, and other equipment. If the lessee does not elect to take over said well as provided above, the disposition of such well and the production therefrom will be determined by the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost will be apportioned between

the oil and gas lessee by the Superintendent.

§ 226.50 How is the cost of drilling a well determined?

The term ''cost of drilling'' as applied where one lessee takes over a well drilled by another, includes all reasonable, usual, necessary, and proper expenditures. A list of expenses mentioned in this section must be presented to proposed purchasing lessee within 10 calendar days after the completion of the well. In the event of a disagreement between the parties as to the charges assessed against the well that is to be taken over, such charges will be determined by the Superintendent.

§ 226.51 What are the requirements for using gas for operating purposes and tribal uses?

All gas used in accordance with this section must first be odorized and treated in accordance with industry standards for safe use.

(a) *Gas to be furnished to oil lessee.* The lessee of a producing gas lease must furnish the oil lessee sufficient gas for operating purposes at a rate to be agreed upon, or on failure to agree, the rate will be determined by the Superintendent: Provided, that the oil lessee must at his/her own expense and risk, furnish and install the necessary connections to the gas lessee's well or pipeline. All such connections must be reported in writing to the Superintendent.

(b) *Use of gas by Osage Tribe.* (1) Gas from any well or wells must be furnished to any Tribal-owned building or enterprise at a rate not to exceed the price being received or offered by a gas purchaser, less royalty. This requirement is subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser, the rate to be paid by the Osage Nation will be determined by the Superintendent based on prices being paid by purchasers in the Osage mineral estate. The Osage Nation is to furnish all necessary materials and labor for such connection with the lessee's gas system. The use of such gas is at the risk of the Osage Nation at all times.

(2) Any member of the Osage Nation residing in Osage County and outside a corporate city is entitled to the use at his/her own expense of not to exceed 400,000 cubic feet of gas per calendar year for his/her principal residence at a rate not to exceed the amount paid by a gas purchaser plus 10 percent. This requirement is subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser, the amount to be paid by the Tribal member will be determined by the Superintendent. Gas delivered to Tribal members is not royalty free. The Tribal member is to furnish all necessary material and labor for such connection to the lessee's gas system, and must maintain his/her own lines. The use of such gas is at the risk of the Tribal member at all times.

(3) Gas furnished by the lessee under paragraphs (b)(1) and (2) of this section may be terminated only with the approval of the Superintendent. A written application for termination must be made to the Superintendent showing justification.

Subpart D—Cessation of Operations

§ 226.52 When can a lessee shutdown, abandon, and plug a well?

No well may be permanently abandoned until it is no longer producing oil and/or gas in paying quantities and such a showing has been demonstrated to the satisfaction of the Superintendent. The lessee may not shut down, abandon, or otherwise discontinue the operation or use of any well for any purpose without the written approval of the Superintendent. All applications for such approval must be submitted to the Superintendent on forms furnished by the Superintendent.

(a) An application for authority to permanently shut down or discontinue the use or operation of a well must set forth the justification, the means by which the well bore is to be protected, and the contemplated eventual disposition of the well. The method of conditioning such well is subject to the approval of the Superintendent.

(b) Prior to permanent abandonment of any well, the oil lessee or the gas lessee, as the case may be, must offer the well to the other for his/her recompletion or use under such terms as may be mutually agreed upon but not in conflict with the regulations. Failure of the lessee receiving the offer to reply within 10 calendar days after receipt thereof will be deemed a rejection of the offer. If, after indicating acceptance, the two parties cannot agree on the terms of the offer within 30 calendar days, the disposition of such well will be determined by the Superintendent.

(c) The Superintendent is authorized to shut in a lease when the lessee fails to comply with the terms of the lease, the regulations, and/or orders of the Superintendent.

§ 226.53 When must a lessee dispose of casings and other improvements?

(a) Upon termination of a lease, permanent improvements, unless otherwise provided by written agreement with the surface owner and filed with the Superintendent, remain a part of said land and become the property of the surface owner upon termination of the lease. This rule does not apply to personal property, including but not limited to, tools, tanks, pipelines, pumping and drilling equipment, derricks, engines, machinery, tubing, and the casings of all wells. When any lease terminates, all such personal property must be removed within 90 calendar days or such reasonable extension of time as may be granted by the Superintendent. Otherwise, the ownership of all casings reverts to the lessor and all other personal property and permanent improvements to the surface owner. This should not be construed to relieve the lessee of responsibility for removing any such personal property or permanent improvements from the premises if required by the Superintendent and restoring the premises as nearly as practicable to the original state.

(b) Upon termination of lease for cause. When there has been a termination for cause, the lessor is entitled and authorized to take immediate possession of the lease premises and all permanent improvements and all other equipment necessary for the operation of the lease.

(c) Wells to be abandoned must be promptly plugged as prescribed in writing by the Superintendent. Applications to plug must include a statement affirming compliance with § 226.52 and must set forth reasons for plugging, a detailed statement of the proposed work, including the kind, location, and length of plugs (by depth), plans for mudding and cementing, testing, parting and removing casing, and any other pertinent information. The lessee must submit a written application for authority to plug a well.

(d) The lessee must plug and fill all dry or abandoned wells in a manner to confine the fluid in each formation bearing fresh water, oil, gas, salt water, and other minerals, and to protect it against invasion of fluids from other sources. Mud-laden fluid, cement, and other plugs must be used to fill the hole from bottom to top.

(1) If a satisfactory agreement is reached between the lessee and the surface owner, subject to the approval of the Superintendent, the lessee may condition the well for use as a fresh

water well and must so indicate on the plugging record.

(2) The manner in which plugging material will be introduced and the type of material used is subject to the approval of the Superintendent.

(3) Within 10 calendar days after plugging, the lessee must file with the Superintendent a complete report of the plugging of each well.

(4) When any well is plugged and abandoned, the lessee must, within 90 calendar days, clean up the premises around such well to the satisfaction of the Superintendent.

Subpart E—Requirements of Lessees

§ 226.54 What general requirements apply to lessees?

(a) The lessee must comply with all orders or instructions issued by the Superintendent. The Superintendent or his/her representative may enter upon the leased premises for the purpose of inspection.

(b) The lessee must keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required.

(c) The lessee's books and records must be available to the Superintendent for inspection.

(d) The lessee must maintain and preserve records for 6 years from the day on which the transaction recorded occurred unless the Superintendent notifies the lessee of an audit or investigation involving the records and that they must be maintained for a longer period. When an audit or investigation is underway, records must be maintained until the lessee is released in writing from the obligation to maintain the records.

§ 226.55 When must a lessee designate process agents?

(a) Before actual drilling or development operations are commenced on leased lands, the lessee or assignee, if not a resident of the State of Oklahoma, must appoint a local or resident representative within the State of Oklahoma on whom the Superintendent may serve notice or otherwise communicate in securing compliance with the regulations in this part, and notify the Superintendent of the name and post office address of the representative appointed.

(b) Where several parties own a lease jointly, the parties must designate one representative or agent whose duties are to act for all parties concerned.

(c) The lessee must appoint a substitute to serve in his/her stead in the event of the incapacity or absence from the State of Oklahoma of such designated local or resident representative. In the absence of such representative or appointed substitute, any employee of the lessee upon the leased premises or person in charge of drilling or related operations thereon will be considered the representative of the lessee for the purpose of service of orders or notices as herein provided.

§ 226.56 What are the lessee's record and reporting requirements for wells?

(a) The lessee must keep accurate and complete records of the drilling, redrilling, deepening, repairing, treating, plugging, or abandonment of all wells. These records must show:

(1) All the formations penetrated, the content and character of the oil, gas, other marketable product, or water in each formation, and the kind, weight, size, landed depth, and cement record of casing used in drilling each well;

(2) The record of drill-stem and other bottom hole pressure or fluid sample surveys, temperature surveys, directional surveys, and the like;

(3) The materials and procedure used in the treating or plugging of wells or in preparing them for temporary abandonment; and

(4) Any other information obtained in the course of well operation.

(b) The lessee must take such samples and make such tests and surveys as may be required by the Superintendent to determine conditions in the well or producing reservoir and to obtain information concerning formations drilled, and furnish such reports as required in the manner and method specified by the Superintendent.

(c) Within 10 calendar days after completion of operations on any well, the lessee must transmit to the Superintendent:

(1) All applicable information on forms furnished by the Superintendent;

(2) A copy of the electrical, mechanical or radioactive log, or other types of surveys of the well bore; and

(3) The core analysis obtained from the well.

(d) The lessee must also submit other reports and records of operations as may be required and in the manner, form, and method prescribed by the Superintendent.

(e) The lessee must measure production of oil, gas, other marketable product, and water from individual wells at reasonably frequent intervals to the satisfaction of the Superintendent.

(f) Upon request and in the manner, form and method prescribed by the Superintendent, the lessee must furnish a plat showing the location, designation, and status of all wells on the leased lands, together with such other pertinent information as the Superintendent may require.

§ 226.57 What line drilling limitations must a lessee comply with?

The lessee may not drill within 300 feet of the boundary line of leased lands, or locate any well or tank within 200 feet of any public highway, any established watering place, or any building used as a dwelling, granary, or barn, except with the written permission of the Superintendent. Failure to obtain advance written permission from the Superintendent will subject the lessee to termination of the lease and/or plugging of the well.

§ 226.58 What are the requirements for marking wells and tank batteries?

The lessee must clearly and permanently mark all wells and tank batteries in a conspicuous place with the number, legal description, operator's name, lessee's name and telephone number, and must take all necessary precautions to preserve these markings.

§ 226.59 What precautions must a lessee take to ensure natural formations are protected?

The lessee must, to the satisfaction of the Superintendent, take all proper precautions and measures to prevent damage or pollution of oil, gas, fresh water, or other mineral bearing formations.

§ 226.60 What are a lessee's obligations to maintain control of wells?

(a) In drilling operations in fields where high pressures, lost circulation, or other conditions exist which could result in blowouts, the lessee must install an approved gate valve or other controlling device in proper working condition for use until the well is completed. At all times, preventative measures must be taken in all well operations to maintain proper control of subsurface strata.

(b) *Drilling wells.* The lessee must take all necessary precautions to keep each well under control at all times, and must utilize and maintain materials and equipment necessary to insure the safety of operating conditions and procedures.

(c) *Vertical drilling.* The lessee must conduct drilling operations in a manner so that the completed well does not deviate significantly from the vertical without the prior written approval of the Superintendent. Significant deviation means a projected deviation of the well bore from the vertical of 10° or more, or a projected bottom hole location which could be less than 200 feet from the spacing unit or lease boundary. Any well which deviates more than 10° from the vertical or could

result in a bottom hole location less than 200 feet from the spacing unit or lease boundary without prior written approval must be reported promptly to the Superintendent. In these cases, a directional survey is required.

(d) *High pressure or loss of circulation.* The lessee must take immediate steps and utilize necessary resources to maintain or restore control of any well in which the pressure equilibrium has become unbalanced.

(e) *Protection of fresh water and other minerals.* The lessee must isolate freshwater-bearing and other usable water containing 5,000 ppm or less of dissolved solids and other mineral-bearing formations and protect them from contamination. Tests and surveys of the effectiveness of such measures must be conducted by the lessee using procedures and practices approved or prescribed by the Superintendent.

(f) The lessee must conduct activities in accordance with the standards and procedures set forth in Bureau of Land Management Onshore Oil and Gas Order No. 6, Hydrogen Sulfide Operations.

§ 226.61 How does a lessee prevent waste of oil and gas and other marketable products?

(a) The lessee must conduct all operations in a manner that will prevent waste of oil and gas and other marketable products and must not wastefully utilize oil or gas or other marketable products.

(b) The Superintendent has the authority to impose such requirements as he deems necessary to prevent waste of oil and gas and other marketable products and to promote the greatest ultimate recovery of oil and gas and other marketable products.

(c) For purposes of this section, waste includes, but is not limited to, the inefficient, excessive or improper use or dissipation of reservoir energy which would reasonably reduce or diminish the quantity of oil or gas or other marketable product that might ultimately be produced, or the unnecessary or excessive surface loss or destruction, without beneficial use, of oil, gas or other marketable product.

§ 226.62 How does a lessee measure and store oil?

(a) All production run from the lease must be measured according to methods and devices approved by the Superintendent. Facilities suitable for containing and measuring accurately all crude oil produced from the wells must be provided by the lessee and must be located on the leasehold unless otherwise approved by the Superintendent. The lessee must furnish to the Superintendent a copy of 100-percent capacity tank table for each tank. Meters and installations for measuring oil must be approved.

(b) The lessee must ensure that each Lease Automatic Custody Transfer (LACT) meter is inspected, calibrated, and adjusted at least twice in each calendar year. Each inspection, calibration, and adjustment must be separated by a period of not less than five months. The lessee must give the Superintendent at least 48 hours prior notice of all LACT meter inspections, calibrations, and adjustments. The Superintendent has the right to witness, unannounced, all LACT meter inspections, calibrations, and adjustments. The lessee must fully cooperate with such witnessing. If the Superintendent is not present, then he may request records relating to all LACT meter inspections, calibrations, and adjustments. Repeated failures to comply with this subparagraph will render the lease subject to termination after consultation with the Osage Minerals Council.

(c) When a tank of oil is ready for removal by the purchaser, the lessee must ensure that the Superintendent is informed of that fact before the purchaser is so informed via an electronic or telephonic method established by the Superintendent for reporting pursuant to this subparagraph. Repeated failures to inform the Superintendent will render the lease subject to termination after consultation with the Osage Minerals Council.

(d) The Superintendent has the right to witness all gaugings, unannounced, on each lease. The lessee must fully cooperate with such gaugings and repeated failures to comply will render the lease subject to termination after consultation with the Osage Minerals Council.

§ 226.63 How is gas measured?

(a) All gas required to be measured must be measured in accordance with the standards, procedures, and practices set forth in Bureau of Land Management Onshore Oil and Gas Order No. 5, Measurement of Gas. To the extent that Onshore Oil and Gas Order 5 conflicts with any provision of these regulations, these regulations control.

(b) All gas, required to be measured, must be measured by orifice meter unless otherwise agreed to in writing by the Superintendent. All gas meters must be approved by the Superintendent and installed at the expense of the lessee or purchaser at such places as may be agreed to in writing by the Superintendent. For computing the volume of all gas produced, sold or subject to royalty, the standard of pressure is 14.65 pounds to the square inch, and the standard of temperature is 60 degrees F. All measurements of gas must be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized in writing by the Superintendent.

(c) The lessee must ensure that each meter is inspected, calibrated, and adjusted at least twice in each calendar year. Each inspection, calibration and adjustment must be separated by a period of not less than five months apart. The lessee must give the Superintendent at least 48 hours prior notice of all meter inspections, calibrations, and adjustments. The Superintendent has the right to witness, unannounced, all meter inspections, calibrations, and adjustments. The lessee must fully cooperate with such witnessing. If the Superintendent is not present, he may request records relating to all meter inspections, calibrations, and adjustments. Repeated failures to comply with this subparagraph will render the lease subject to termination after consultation with the Osage Minerals Council.

§ 226.64 When can a lessee use gas for lifting oil?

The lessee must not use raw natural gas from a distinct or separate stratum for the purpose of flowing or lifting oil, except where the lessee has an approved right to both the oil and the gas, and then only with the approval of the Superintendent of such use and of the manner of its use.

§ 226.65 What site security standards apply to oil and gas and other marketable product leases?

(a) *Definitions.* The following definitions apply to terms used in this section.

Appropriate valves. Those valves in a particular piping system, *i.e.,* fill lines, equalizer or overflow lines, sales lines, circulating lines, and drain lines that must be sealed during a given operation.

Effectively sealed. The placement of a seal in such a manner that the position of the sealed valve may not be altered without the seal being destroyed.

Production phase. That period of time or mode of operation during which crude oil is delivered directly to or through production vessels to the storage facilities and includes all operations at the facility other than those defined as being in the sales phase.

Sales phase. That period of time or mode of operation during which crude

oil is removed from the storage facilities for sales, transportation or other purposes.

Seal. A device, uniquely numbered, which completely secures a valve.

(b) *Minimum standards.* Each lessee must comply with the following minimum standards to assist in providing accountability for oil or gas production:

(1) All lines entering or leaving oil storage tanks must have valves capable of being effectively sealed during the production and sales operations unless otherwise modified by other subparagraphs of this paragraph. Any equipment needed for effective sealing, excluding the seals, must be located at the site. For a minimum of 6 years the lessee must maintain a record of seal numbers used and must document on which valves or connections they were used as well as when they were installed and removed. The site facility diagram(s) must show which valves will be sealed in which position during both the production and sales phases of operation.

(2) Each LACT system must employ meters that have non-resettable totalizers. There may not be any by-pass piping around the LACT. All components of the LACT that are used for volume or quality determinations of the oil must be effectively sealed. For systems where production may only be removed through the LACT, no sales or equalizer valves need be sealed. However, any valves which may allow access for removal of oil before measurement through the LACT must be effectively sealed.

(3) There must not be any by-pass piping around gas meters. Equipment which permits changing the orifice plate without bleeding the pressure off the gas meter run is not considered a by-pass.

(4) For oil measured and sold by hand gauging, all appropriate valves must be sealed during the production or sales phase, as applicable.

(5) Circulating lines having valves which may allow access to remove oil from storage and sales facilities to any other source except through the treating equipment back to storage must be effectively sealed as near the storage tank as possible.

(6) The lessee, with reasonable frequency, must inspect all leases to determine production volumes and that the minimum site security standards are being met. The lessee must retain records of such inspections and measurements for 6 years from generation. Such records and measurements must be available to the Superintendent upon request.

(7) Any lessee may request the Superintendent to approve a variance from any of the minimum standards prescribed by this section. The variance request must be submitted in writing to the Superintendent who may consider such factors as regional oil field facility characteristics and fenced, guarded sites. The Superintendent may approve a variance if the proposed alternative will ensure measures equal to or in excess of the minimum standards provided in paragraph (b) of this section will be put in place to detect or prevent internal and external theft, and will result in proper production accountability.

(c) *Site security plans.* (1) Site security plans, which include the lessee's plan for complying with the minimum standards enumerated in paragraph (b) of this section for ensuring accountability of oil/condensate production are required for all facilities and the lessee must maintain such facilities in compliance with the plan. For new facilities, notice must be given that it is subject to a specific existing plan, or a notice of a new plan must be submitted, no later than 60 days after completion of construction or first production, whichever is earlier, and on that date the facilities must be in compliance with the plan. At the lessee's option, a single plan may include all of the lessee's leases, units, and communitized areas, provided the plan clearly identifies each lease, unit, or communitized area included within the scope of the plan and the extent to which the plan is applicable to each lease, unit, or communitized area so identified.

(2) The lessee must retain the plan and notify the Superintendent of its completion and which leases, units, and communitized areas are involved. Such notification is due at the time the plan is completed as required by paragraph (c)(1) of this section. Such notification must include the location and normal business hours of the office where the plan will be maintained. Upon request, plans must be made available to the Superintendent.

(3) The plan must include the frequency and method of the lessee's inspection and production volume recordation. The Superintendent may, upon examination, require adjustment of the method or frequency of inspection.

(d) *Site facility diagrams.* (1) Facility diagrams are required for all facilities which are used in storing oil/condensate. Facility diagrams must be filed within 60 calendar days after new measurement facilities are installed or existing facilities are modified.

(2) No format is prescribed for facility diagrams. They are to be prepared on 8½″ x 11″ paper, if possible, and be legible and comprehensible to a person with ordinary working knowledge of oil field operations and equipment. The diagram need not be drawn to scale.

(3) A site facility diagram must accurately reflect the actual conditions at the site and must, commencing with the header if applicable, clearly identify the vessels, piping, metering system, and pits, if any, which apply to the handling and disposal of oil, gas and water. The diagram must indicate which valves must be sealed and in what position during the production or sales phase. The diagram must clearly identify the lease on which the facility is located and the site security plan to which it is subject, along with the location of the plan.

§ 226.66 What are a lessee's reporting requirements for accidents, fires, theft, and vandalism?

Lessees must make a complete report to the Superintendent of all accidents environmental or otherwise, fires, or acts of theft and vandalism occurring on the leased premises as soon as discovered, but not later than the next business day. Said report must include an estimate of the volume of oil involved. Lessees also are expected to report such thefts within one business day to local law enforcement agencies, internal company security. Lessees must also notify or attempt to notify the surface owner or his/her designated agent in writing by U.S. mail of any such incident covered under this section.

Subpart F—Penalties

§ 226.67 What are the penalties for violations of lease terms?

Unless otherwise set forth in a lease, violations of any of the terms or conditions of any lease or of the regulations in this part will subject the lease to termination by the Superintendent, or Lessee to a fine of not more than $500 per day for each day of such violation or noncompliance with the orders of the Superintendent, or to both such fine and termination of the lease. Fines not received within 10 business days after notice of the decision will be subject to late charges at the rate of not less than 1½ percent per month for each month or fraction thereof until paid.

§ 226.68 What are the penalties for violation of certain operating regulations?

Unless otherwise set forth in a lease, in lieu of the penalties provided under § 226.67, penalties may be imposed by

the Superintendent for violation of certain sections of the regulations of this part as follows:

(a) For failure to obtain permission to start operations required by § 226.34(a), $50 per day.

(b) For failure to file records required by § 226.56, $50 per day until compliance is met.

(c) For failure to mark wells or tank batteries as required by § 226.58, $50 per day for each well or tank battery.

(d) For failure to construct and maintain pits as required by § 226.44(b)–(d), $50 for each day after operations are commenced on any well until compliance is met.

(e) For failure to comply with § 226.60 regarding control of wells, $100 per day.

(f) For failure to notify Superintendent before drilling, redrilling, deepening, plugging, or abandoning any well, as required by §§ 226.34(b)–(c) and 226.49, $200 per day.

(g) For failure to properly care for and dispose of deleterious fluids as provided in § 226.44(e), $500 per day until compliance is met.

(h) For failure to file plugging reports as required by § 226.53(d) and for failure to file reports as required by § 226.26, $50 per day for each violation until compliance is met.

(i) For failure to perform or start an operation within 5 calendar days after ordered by the Superintendent in writing under authority provided in this part, if said operation is thereafter performed by or through the Superintendent, the actual cost of performance thereof, plus 25 percent.

Subpart G—Appeals and Notices

§ 226.69 Who can file an appeal?

Any person, firm or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, by virtue of the regulations in this part, may appeal pursuant to 25 CFR part 2.

§ 226.70 Are the notices by the Superintendent binding?

Notices and orders issued by the Superintendent to the representative are binding on the lessee. The Superintendent may in his/her discretion increase the time allowed in his/her orders and notices.

§ 226.71 Information collection.

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0180. Response is required to obtain or retain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Dated: May 4, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–11314 Filed 5–8–15; 8:45 am]

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Part III

Department of Education

34 CFR Chapter IV
Final Priorities, Requirements, Definitions, and Selection Criterion—First in the World Program; Applications for New Awards; Final Rule and Notices

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket No. ED–2015–OPE–0001; CFDA Numbers: 84.116F and 84.116X]

Final Priorities, Requirements, Definitions, and Selection Criterion—First in the World Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final priorities, requirements, selection criterion, and definitions.

SUMMARY: The Assistant Secretary for Postsecondary Education announces priorities, requirements, a selection criterion, and definitions under the First in the World (FITW) program. The Assistant Secretary may use these priorities, requirements, selection criterion, and definitions for competitions in fiscal year (FY) 2015 and later years.

These priorities, requirements, selection criterion, and definitions will enable the Department to focus the FITW program on identified barriers to student success in postsecondary education and advance the program's purpose to build evidence for what works in postsecondary education through development, evaluation, and dissemination of innovative strategies to support students who are at risk of failure in persisting in and completing their postsecondary programs of study.

DATES: These priorities, requirements, selection criterion, and definitions are effective June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Frank Frankfort, U.S. Department of Education, 1990 K Street NW., Room 6166, Washington, DC 20006. Telephone: (202) 502–7513 or by email: *frank.frankfort@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: Earning a postsecondary degree or credential is a prerequisite for the growing jobs of the new economy and the clearest pathway to the middle class. The average earnings of college graduates are almost twice as high as those of workers with only a high school diploma and, over this decade, employment in jobs requiring education beyond a high school diploma will grow more rapidly than employment in jobs that do not.[1]

Today, even though college enrollment has increased by 50 percent since 1990, and despite the importance of a postsecondary education to financial security for American families, only 40 percent of Americans hold a postsecondary degree.[2] While the vast majority of high school graduates from the wealthiest American families continue on to higher education, only half of high school graduates from the poorest families attend college.[3] About 60 percent of students at four-year institutions earn a bachelor's degree within six years.[4] For low-income students, the prospects are even worse, as only 40 percent reach completion.[5] Almost 37 million Americans report ''some college, no degree'' as their highest level of education.[6] Due to these outcomes, the United States has been outpaced internationally in higher education. In 1990, the United States ranked third in the world in degree attainment among 25–34 year olds [7] (and ranked first in terms of university education [8]); in 2012, the United States ranked 12th.[9]

Recognizing these factors, President Obama set a goal for the country that America will once again have the highest proportion of college graduates in the world. To support this national effort, the Administration has outlined a comprehensive agenda that includes expanding opportunity and increasing quality at all levels of education, from early learning through higher education. The FITW program is a key part of this agenda.

Unlike in previous generations, adult learners, working students, part-time students, students from low-income backgrounds, students of color, and first-generation students now make up the majority of students in college.[10] Ensuring that these students persist in and complete their postsecondary education is essential to meeting our Nation's educational challenges. However, the traditional methods and practices of the country's higher education system have typically not been focused on ensuring successful outcomes for these students, and too little is known about what strategies are most effective for addressing key barriers that prevent these students from persisting and completing.

A key element of the FITW program is its multi-tier structure that links the amount of funding that an applicant may receive to the quality of evidence supporting the efficacy of the proposed project and the scope of its potential impact. In this program, applicants proposing practices supported by limited evidence can receive smaller grants (Development grants) that support the development and initial evaluation of innovative but untested strategies. Applicants proposing practices supported by evidence from rigorous evaluations can receive larger grants (Validation and Scale-up grants), in amounts commensurate to the level of supporting evidence and intended scope, for implementation at greater scale to test whether initially successful strategies remain effective when adopted in varied locations and with large and diverse groups of students. This structure provides incentives for applicants to build evidence of the effectiveness of their proposed projects and to address the barriers to serving large numbers of students within institutions and across institutions, systems, States, regions, or the Nation.

All FITW grantees are required to use part of their budgets to conduct independent evaluations (as defined in this notice) of their projects. This ensures that projects funded under the FITW program contribute significantly to increasing the amount of rigorous research available to practitioners and policymakers about which practices work, for which types of students, and in what contexts.

Program Authority: 20 U.S.C. 1138–1138d.

We published the notice of proposed priorities, requirements, selection criterion, and definitions (NPP) for this program in the **Federal Register** on February 23, 2015 (80 FR 9414). That

[1] Carnevale, A., Smith, N., Strohl, J., Help Wanted: Projections of Jobs and Education Requirements Through 2018. Georgetown Center on Education and the Workforce, 2010.

[2] U.S. Census Bureau. ''Educational Attainment of the Population 18 Years and Over, by Age, Sex, Race, and Hispanic Origin: 2014'' Retrieved from: *http://www.census.gov/hhes/socdemo/education/data/cps/2014/tables.html.*

[3] National Center for Education Statistics. ''Percentage of recent high school completers enrolled in 2-year and 4-year colleges, by income level: 1975 through 2012.'' Retrieved from: *http://nces.ed.gov/programs/digest/d13/tables/dt13_302.30.asp.*

[4] National Center for Education Statistics. ''Percentage distribution of first-time postsecondary students starting at 2- and 4-year institutions during the 2003–04 academic year, by highest degree attained, enrollment status, and selected characteristics: Spring 2009.'' Retrieved from: *http://nces.ed.gov/programs/digest/d13/tables/dt13_326.40.asp.*

[5] Id.

[6] U.S. Census Bureau, 2012 American Community Survey.

[7] Organization of Economic Co-operation and Development, Education at a Glance 2004 (Table A3.4b, showing data for 1991).

[8] Organization of Economic Co-operation and Development, Education at a Glance 1993, Table S5.

[9] Organization of Economic Co-operation and Development, Education at a Glance 2014.

[10] U.S. Department of Education. 2010. Profile of Undergraduate Students: 2007–08. National Center for Education Statistics: 2010–205. Washington DC.

notice contained background information and our reasons for proposing the particular priorities, requirements, selection criterion, and definitions.

There are some differences between the proposed priorities, requirements, definitions, and selection criterion and these final priorities, requirements, definitions, and selection criterion. We discuss significant changes from the NPP in the *Analysis of Comments and Changes.* We do not discuss minor technical or editorial changes.

Public Comment: In response to our invitation in the NPP, 38 parties submitted comments on the proposed priorities, requirements, selection criterion, and definitions. We group major issues according to subject.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, selection criterion, and definitions since publication of the NPP follows.

Priorities

Priorities—General

Comment: Two commenters suggested additional priorities. One commenter recommended that the Department add a priority focused on improving the transition between secondary and postsecondary education. The commenter suggested that this priority could include elements of other priorities, such as developing alternatives to single measure placement strategies mentioned under Priority 1 (Improving Success in Developmental Education) and aligning assessments across secondary and postsecondary institutions mentioned under Priority 4 (Developing and Using Assessments of Learning). The proposed priority would also include setting clear expectations about college for high school seniors and providing data on first-year college students' performance to their high schools.

Another commenter acknowledged that developmental education is a barrier for many students, but added that students encounter challenges even after they have progressed to credit-bearing coursework. The commenter recommended adding a priority to address removing barriers to credit accumulation and progression. As proposed by the commenter, this priority would focus on institutional policies and programs that could be improved to promote completion and could include subparts on redesigning gateway courses, particularly in mathematics, and academic mapping.

Discussion: We agree with the importance of the issues and topics mentioned by the commenters, and believe that the existing priorities address these issues. Therefore, we decline to add additional priorities.

As noted in the NPP, in any FITW competition, we may include priorities from the Department's notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 10, 2014 (79 FR 73425) (Supplemental Priorities). The Supplemental Priorities include priorities on increasing postsecondary success, including academic preparation for and awareness of postsecondary education, and using assessment data to inform classroom practices. Therefore, we do not believe that it is necessary for the Department to develop new priorities to address these areas for the FITW program. In addition, the priorities we establish here would not preclude an eligible applicant from proposing projects that promote cross-sector collaboration, such as between secondary and postsecondary institutions, provided that the proposed project otherwise meets the requirements in the relevant priority. Further, because promoting student success aligns with many of the other priorities, we do not think it is necessary to add a priority to address this topic.

We also do not consider it necessary to create a priority that focuses on barriers to credit accumulation because many of the final priorities encourage applicants to propose new models for promoting degree progression. For example, we include a subpart under Priority 5 (Facilitating Pathways to Credentialing and Transfer) that focuses on credentialing pathways.

Changes: None.

Comment: Two commenters suggested that applicants should be permitted to apply under more than one priority. One stated that an integrated approach to reform is needed to achieve substantial improvements in student outcomes and recommended that applicants be permitted to choose the priorities, or combination of priorities, which they wish to address. Another commenter argued that permitting applicants to address more than one priority would allow applicants to propose more comprehensive solutions to the challenges that inhibit student success.

Discussion: We recognize that the priorities address a complex range of problems in postsecondary education that may necessitate complex and comprehensive solutions. However, the FITW program is designed to generate evidence regarding which interventions most effectively address these problems. In order to demonstrate effectiveness, a project must be evaluable, which may become more difficult as the complexity of the approach increases. Thus, we designed the program to focus on one identified challenge by requiring applicants to address only one of the priorities. Nonetheless, the priorities do not prescribe the intervention or practice that an applicant may propose. Accordingly, although an applicant may apply under only one priority and the application will be evaluated based on how well the applicant addresses that priority, an applicant may propose integrated solutions to the challenges identified in one or more of the priorities. We also note that the Department may choose to apply one or more absolute, competitive preference, or invitational priorities in any future competition in order to generate evidence of the effectiveness of innovative strategies.

Changes: None.

Comment: One commenter recommended that priority be given to projects focused on students who have already been served by college readiness programs, such as Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), so as to leverage the investment that has already been made in these students and increase the likelihood of success.

Discussion: The Department is unable to give preference to grantees in other Federal programs, such as GEAR UP, and be consistent with the priorities which we have established. Nonetheless, applicants may be able to strengthen their proposals based on the other types of support they are providing through other resources to a particular student population before, during, or after the proposed FITW intervention.

Changes: None.

Comment: One commenter argued that the FITW program is too narrowly focused on completion, and that the Department should be concerned about affordability and financial aid. The commenter suggested that the FITW program specify outcomes such as indebtedness after college and labor market outcomes, including salary.

Discussion: We appreciate the commenter's suggestion, but believe the proposed priorities address these concerns. For example, Priority 6 (Increasing the Effectiveness of Financial Aid) could include loan counseling projects. Priorities 4 (Developing and Using Assessments of Learning) and 5 (Facilitating Pathways to Credentialing and Transfer) can be used to align curricula and credentials

to career pathways. Priorities 1 (Improving Success in Developmental Education), 2 (Improving Teaching and Learning), 3 (Improving Student Support Services), and 5 all address core issues affecting the cost of higher education. The primary aim of the FITW program is to support projects that will improve the rate of degree and credential completion, but student indebtedness and labor market outcomes may also be addressed.

Changes: None.

Comment: One commenter encouraged the solicitation of proposals aimed at building an institutional culture that supports scaled reforms, strategic partnerships, deep and broad engagement with faculty, staff, and other stakeholders, and constant attention to closing achievement gaps.

Discussion: We believe the priorities, requirements, definitions, and selection criterion that we establish here can be used to address these important goals. For instance, Priority 2 (Improving Teaching and Learning), subpart (iii) speaks specifically to institutional level strategies, and Priority 4 (Developing and Using Assessments of Learning), subpart (ii) speaks to professional development or training of faculty and staff. In addition, the tiers of FITW grants encourage institutional partnerships and provide a continuum for funding that span from initial, localized development to implementation on a national scale. In addition, Priority 9 (Systems and Consortia Focused on Large-Scale Impact) and the selection criterion (Collaboration) encourage applicants to focus on strategic partnerships.

Changes: None.

Comment: One commenter recommended that the Department help make college affordable and accessible for students and their families by decreasing the price of textbooks and increasing financial aid.

Discussion: We think it is important to specify here that FITW grantees may not disburse project funds to students as financial aid. We agree with the commenter that affordability is an important issue that merits attention. However, we think that this topic is addressed in the priorities announced in this document and in the Supplemental Priorities. In FITW Priority 6 (Increasing the Effectiveness of Financial Aid), we encourage projects that improve the effectiveness of existing financial aid funds through counseling, need-based aid, or other strategies. Supplemental Priority 5 (Increasing Postsecondary Access, Affordability, and Completion) includes a subpart for projects that reduce the net cost (*e.g.,* total cost minus financial aid) of college. Open educational resources could additionally be a component of many proposed interventions.

Changes: None.

Priority 1—Improving Success in Developmental Education

Comment: Several commenters suggested that the Department revise this priority to include specific strategies that would support students in developmental education. One commenter recommended that the Department prioritize projects that blend academic with non-academic support systems to track low-income learners in developmental education. Another commenter suggested that younger students would benefit from having multiple teachers. A third commenter offered support for the priority overall and recommended that it include partnerships between adult education programs and institutions of higher education that can address learners' basic skills and English language needs. Finally, one commenter recommended that three particular strategies be given preference: (1) Identifying and treating academic needs prior to postsecondary enrollment; (2) accelerating students' progress by placing them into credit-bearing courses with proper support; and (3) integrating academic and other support for students in developmental education.

Discussion: An applicant may propose any of these strategies to improve student success in developmental education. We expect applicants to consider the needs of their institution and available research from the field when designing an application to address this priority.

Changes: None.

Comment: One commenter expressed support for Priority 1, but suggested that the Department allow grantees flexibility in complying with other regulations if this priority is selected for use in a competition. The commenter raised a concern that grantees could face penalties or barriers to implementing novel ideas and that implementing a project designed to address the priority would be unduly burdensome for support staff.

Discussion: We appreciate the commenter's concerns, but do not believe that the priority creates barriers to implementation of interventions designed to address the challenges identified in the priority. We think it is important to clarify that these priorities correspond to what the Department believes are the greatest challenges in postsecondary education and the areas most in need of innovative ideas to address barriers to postsecondary student success. We also believe that clear communication, strong partnerships, and project leadership are important in order to successfully implement an intervention. While the Department encourages grantees to consider and address these issues, we do not include them specifically in the priorities.

Changes: None.

Comment: One commenter expressed concern that the heavy workload of developmental courses may direct time and energy away from students' other credit-bearing courses, particularly for high-need students. The commenter recommended that the Department calculate for each application the time or opportunity cost to students in developmental courses.

Discussion: We agree that developmental coursework may pose barriers to student success in degree credit-bearing courses. We include a subpart under this priority for projects that redesign developmental courses together with occupational or college-content coursework.

In addition, we note that Requirement 5 (Independent Evaluation) requires all grantees of the FITW program to use part of their budgets to conduct an independent evaluation of their projects. This ensures that projects contribute significantly to improving the information available to practitioners and policymakers about which practices work, for which types of students, and in what contexts. The results of these evaluations will be available to the public. Additionally, two of the performance measures established for the FITW program are cost per participant and cost per successful outcome, so the Department will collect data from grantees on these measures.

Finally, since the ultimate goal is student progress into credit-bearing courses, many pathways could be proposed.

Changes: None.

Comment: One commenter expressed support for the mention of contextualized learning in a subpart under this priority. However, the commenter noted that variations in accreditation and reporting standards across institutions of higher education may inhibit their ability to offer more courses built around contextualized learning.

Discussion: We appreciate the commenter's support and recognize that institutions must attend to a variety of accountability requirements and standards. The subpart mentions contextualized developmental

education as one example of a strategy to address this priority.

Changes: None.

Priority 2—Improving Teaching and Learning

Comment: One commenter expressed support for Priority 2. Another commenter echoed this support and suggested that the priority specifically emphasize team teaching and faculty professional development. This commenter pointed out that team teaching has been well researched in elementary and secondary schools and offered recommendations for particular evidence-based strategies to test in postsecondary education.

Discussion: We appreciate the commenters' support for Priority 2. We believe that Priority 2 allows considerable flexibility for applicants to propose innovative strategies to improve teaching and learning. We encourage applicants to use strategies that are based on the demonstrated needs of their institution and on available research in the field.

Changes: None.

Comment: One commenter suggested that Priority 2 include a focus on system-level or consortia-level projects that track learning among transfer students. The commenter argued that this is particularly important for non-traditional learners who are more mobile than traditional learners. According to the commenter, learning could be measured by proficiency development or value-added measures of learning associated with a general education curriculum.

Discussion: We appreciate the commenter's recommendation and agree that collaboration among institutions and other partners can lead to increased student success. We believe these approaches could be addressed in Priorities 4 (Developing and Using Assessments of Learning), 5 (Facilitating Pathways to Credentialing and Transfer), and 9 (Systems and Consortia Focused on Large-Scale Impact).

Changes: None.

Comment: One commenter recommended that we revise Priority 2 to include references to hybrid and flipped teaching models as well as peer-supported learning models, such as supplemental learning and peer tutoring. The commenter suggested that these changes could be added to subpart (b)(ii) or as a new subpart.

Discussion: We thank the commenter for this suggestion. We note that subpart (b)(ii) of Priority 2 includes a focus on online or blended programs. We believe that Priority 2 allows considerable flexibility for applicants to propose innovative strategies to improve teaching and learning.

Changes: None.

Comment: One commenter expressed concern that under-resourced institutions may not have the means to implement innovative strategies. The commenter particularly highlighted the urgency of improving resources for existing programs for high-need students.

Discussion: We thank the commenter for raising this concern. An overall focus of FITW is to improve the resources available to, and the success of, high-need students. The Validation and Scale-up tiers of the competition have the specific goal of increasing the scale and quality of evidence that supports practices that have been demonstrated to work for these students. We also appreciate the commenter's concern regarding the ability of under-resourced institutions to implement innovative strategies. We note that a key feature of the program is an emphasis on encouraging cross-institutional collaborations in order to build on a variety of institutional resources and strengths.

Changes: None.

Priority 3—Improving Student Support Services

Comment: Several commenters expressed strong support for Priority 3 and noted the urgency of expanding the range and number of students served by student support services. One commenter noted that the largest barrier to student success is adjusting to the difference between high school and college. Another commenter suggested that the evidence for student support services is so robust that Priority 3 should be made an absolute priority in future competitions. A third commenter suggested that subpart (b)(iii) should be made an absolute priority.

Discussion: We thank the commenters for their support of Priority 3. We agree that the transition to postsecondary education, whether students enter directly from high school or from the workforce, can be challenging. The goal of this priority is to develop, test, and bring to scale supports to help students through this transitional period as well as during other points along their postsecondary pathways.

In response to the comments suggesting that this priority be used as an absolute priority, we note that the Department has the discretion to use any of these priorities in future FITW competitions. The Department may choose which, if any, of the priorities or subparts are appropriate for a particular competition. If the Department chooses to use these priorities, it also has discretion to decide how they should be designated (*i.e.,* absolute or competitive preference).

Changes: None.

Comment: One commenter suggested that the Department give priority to projects that propose new communication tools, including telephone consulting, well-staffed satellite locations, and extended in-person service hours. Another commenter recommended that technology used to automatically provide supports or services should also include predictive analytics and eligibility screening for multiple public benefits. A third commenter echoed the recommendation for the use of predictive analytics.

Discussion: We appreciate the commenters' suggestions for strategies to improve outreach about support services. We decline to make the proposed changes because we believe these suggestions are adequately addressed in Priority 3. Furthermore, we include predictive analytics as a possible strategy under subpart (b)(ii) of Priority 3.

Changes: None.

Comment: Two commenters recommended that the Department emphasize projects that connect students to a range of financial supports. One commenter encouraged the Department to include projects that integrate education and training, income and work supports, and financial services and asset building for low-income students. Another commenter suggested that resources and services should also include connecting students to financial counseling.

Discussion: We agree that financial supports are an important type of student support service. We decline to include the proposed strategies in Priority 3, however, because we believe that the goal of connecting students to financial resources is adequately addressed in the priorities. Subpart (b)(iii) of Priority 3 mentions providing assistance in accessing government benefits and other resources. In addition, subpart (b)(i) of Priority 6 (Increasing the Effectiveness of Financial Aid) focuses on financial literacy counseling and resources.

Changes: None.

Comment: One commenter recommended that Priority 3 recognize that lesbian, gay, bisexual, and transgender (LGBT) students face unique challenges. The commenter noted that LGBT students need specifically tailored supports both before and during their postsecondary education. The commenter strongly

urged the Department to prioritize proposals that include culturally competent services for LGBT students.

Discussion: As mentioned in the NPP, Priority 3 is designed to support investments in strategies that are most likely to increase access to effective student services, particularly for individuals from groups that have been historically under-served in postsecondary education. These individuals may include, but are not limited to, adult learners, students from low-income backgrounds, students of color, and LGBT students. We further note that recipients of Department funding must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975. For additional information and assistance on civil rights laws that may impose additional requirements on recipients and subrecipients of Federal financial assistance, please consult the ''Notice on Civil Rights Obligations Applicable to the Distribution of Funds under the American Recovery and Reinvestment Act of 2009,'' which is available at *www2.ed.gov/policy/gen/leg/recovery/notices/civil-rights.html.*

Changes: None.

Comment: One commenter encouraged the Department to include a focus on improving outcomes for high-achieving, low-income students as a subpart of Priority 3 or as a new priority. The commenter noted that low-income students are less likely to attend selective postsecondary institutions and that the majority of high-achieving, low-income students do not apply to any selective institutions.

Discussion: We appreciate the commenter's suggestion and concur that strategies to support low-income students merit attention. We note that Requirement 1 (Innovations that Improve Outcomes for High-Need Students) focuses on students from low-income backgrounds, among other high-need student populations. Because this requirement would apply to all grantees, regardless of the priority to which they responded in their applications, we do not believe it is necessary to make the proposed change.

Changes: None.

Comment: Two commenters offered suggestions for specific strategies to improve student advising services. One commenter requested that we revise subpart (b)(ii) to include holistic advising models that incorporate multiple factors for determining college readiness and academic placements. The commenter also suggested that we revise subpart (b)(ii) or (b)(iii) to include career advising to assist students in choosing a major or program of study.

A second commenter also supported the addition of holistic advising models in Priority 3. This commenter recommended that the Department add a focus on collaboration with employers and other workforce partners, including an explicit mention of work-based learning opportunities. The commenter suggested that Priority 3 include the following strategies: Career counseling during initial advising sessions, student supports focused on non-cognitive factors and students' external responsibilities, the use of credential pathways or maps, peer-to-peer supports, cohort-based approaches, and case management approaches.

Discussion: We thank the commenters for their suggestions. There is a wide range of possible strategies to improve student support services. The aim of Priority 3 is to support projects that are subject to rigorous tests to determine which of these strategies effectively improve student outcomes, particularly outcomes related to access, persistence, and completion. We decline to make the proposed revisions because we do not believe it is appropriate for the Department to prescribe which strategies applicants should use to achieve these goals.

Changes: None.

Priority 4—Developing and Using Assessments of Learning

Comment: Two commenters expressed strong support for Priority 4. One commenter suggested that this priority could be made more inclusive by adding specific strategies to serve students with disabilities and students who are English learners. Another commenter emphasized the importance of using educational games for formative assessments. A third commenter recommended that we add assessments that measure co-curricular learning, such as civic engagement and critical thinking skills, under subpart (b).

Discussion: We appreciate the commenters' support for Priority 4. We agree that there are many innovative strategies to assess a variety of student learning outcomes and that strategies under this and all of the priorities should be inclusive of all students. We note that students who are English learners are explicitly included in the illustrative list of examples included in the definition of ''high-need student.'' Students with disabilities could also be considered high-need, assuming the students are at risk of educational failure or otherwise in need of special assistance or support. We also note that all recipients of Department funds must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.

Changes: None.

Comment: One commenter requested a definition of ''open-source assessments.''

Discussion: Although the Department does not define open-source assessments, in the FITW program we may invite applicants to develop assessments of learning that are free and available for others to use and refine. We decline to further define the types of assessments that applicants may propose.

Changes: None.

Comment: One commenter recommended that the Department revise subpart (b)(ii) to include additional stakeholders who may be responsible for student assessments and to elaborate on different assessment types. Specifically, the commenter suggested that the priority include student services personnel and mention diagnostic, formative, and summative assessments.

Discussion: We appreciate the commenter's suggestion. While faculty are primarily responsible for assessing student learning in the classroom, staff may also take part in assessing student learning in other settings, such as knowledge and competencies gained through prior work experience. We do not wish to impose limitations on applicants by specifying the types of allowable assessments, but we have revised the priority to refer to the roles of staff in assessment activities.

Changes: We have revised Priority 4, subpart (b)(ii) to add a reference to professional development for staff, as well as faculty.

Priority 5—Facilitating Pathways to Credentialing and Transfer

Comment: Several commenters expressed strong support for Priority 5 and its subparts. One commenter agreed that alternative credentialing and badging frameworks are needed. Another commenter noted that there is mounting support and evidence for credit for prior learning and opportunities for students to earn credits prior to enrolling in postsecondary education. Echoing this support for prior learning credits, a third commenter suggested that we could strengthen this priority by clarifying that prior learning

assessments and other similar strategies are included under this subpart.

Discussion: We appreciate the commenters' support. We agree that alternative credentialing frameworks and credit for prior learning are promising strategies to recognize student learning and ensure that students reach completion. However, we decline to make the suggested changes because we believe that they are adequately addressed in the existing subparts of the priority. The Department does not wish to limit the types of interventions that applicants might propose through further specification.

Changes: None.

Comment: A commenter requested that the Department include under subpart (b)(ii) the validation and transfer of credentialing or badging frameworks.

Discussion: Projects designed to create or refine credentialing or badging frameworks could be proposed under this priority. We decline to make the requested change in order to avoid being overly prescriptive about how to improve pathways to credentialing and transfer.

Changes: None.

Comment: Noting that many students pursue postsecondary education and training that prepares them for careers, one commenter recommended that Priority 5 explicitly mention strategies to improve career pathways. Such strategies could include embedding work-based learning in credentialing pathways and developing career pathways for high school students, disconnected youth, and adult learners.

Discussion: We thank the commenter for this suggestion. We agree that career preparation is indeed a motivating factor for many postsecondary students. The goal of this priority is to develop innovative strategies to accelerate completion of a wide range of credentials, including portable, stackable credentials aligned to career pathways, as well as specific pathways for individuals who have traditionally been underserved in postsecondary education. We believe the priority adequately reflects this goal.

Changes: None.

Comment: One commenter suggested that we expand what we mean by seamless transfer of credits to include the transfer of postsecondary credits between all postsecondary institutions within and across States. The commenter also recommended that this priority emphasize that credits should be applicable at the receiving institution, and not simply transferrable. Furthermore, the commenter urged us to include strategies that track student mobility and performance across institutions.

Discussion: We appreciate the commenter's suggestions. We decline to make the proposed changes because several priorities already address the commenter's recommendations. For example, the transfer of credits between institutions is mentioned under subpart (b)(i) of Priority 5 and is not restricted to institutions in the same State. In addition, multi-site strategies are addressed under Priority 9 (Systems and Consortia Focused on Large-Scale Impact).

We are not certain what the commenter intends by referring to credits that are applicable rather than simply transferrable. However, the aim of Priority 5 is to ensure that students accelerate progress towards a degree or credential. Thus, we assume that strategies to improve credit transfer would address how credits would be applied towards this end.

Changes: None.

Priority 6—Increasing the Effectiveness of Financial Aid

Comment: Many commenters expressed support for Priority 6. Two commenters recommended focusing on this priority in future FITW competitions. Another commenter noted that there is a sufficient number of relevant evidence-based strategies to warrant making this an absolute priority.

Discussion: We appreciate the commenters' strong support for Priority 6. We agree that there is a substantial body of evidence on the effectiveness of financial aid, and we hope that this evidence will be useful to potential applicants. However, these priorities are intended as a menu of options for future FITW competitions. The Department may choose which, if any, of the priorities or subparts are appropriate for a particular competition. We note that the Department may choose to designate any of these priorities as absolute, competitive preference, or invitational in a given FITW competition, and that these designations may change in future competitions.

Changes: None.

Comment: One commenter urged the Department to create a competitive preference priority for historically black colleges and universities (HBCUs) that would apply to Priority 6 (''Increasing the Effectiveness of Financial Aid'').

Discussion: We recognize the critical role that minority-serving institutions (MSIs), including HBCUs, play in helping our country meet the demand for more postsecondary degrees and credentials. Priority 8 (Improving Postsecondary Student Outcomes at Minority-Serving Institutions) addresses issues at those institutions specifically, and this includes HBCUs.

Changes: None.

Comment: Several commenters recommended specific strategies to increase the effectiveness of financial aid. One commenter suggested that the Department prioritize projects that use restricted access financial aid data or flexible need-based aid. A second commenter suggested one-stop shops for financial aid counseling and resources to access other public benefits. A third commenter recommended that the Department focus on projects that expand or restructure institutional aid programs. Finally, a fourth commenter recommended including projects that aim to simplify financial aid and test need-plus-merit aid.

Discussion: We thank the commenters for these suggestions. Because these projects are permissible under the priority as written, and because we want to ensure applicants have as much flexibility as possible in designing their proposed strategies, we decline to make the proposed changes.

Changes: None.

Comment: One commenter recommended that Priority 6 focus on students with the greatest financial need.

Discussion: We appreciate the commenter's suggestion and concur that college affordability is a pressing problem for students with limited financial resources. This priority aims to simplify access to much needed financial supports, particularly those that will have a meaningful impact on completion. We do not specify the categories of students that must be served in this or in any other priority. However, Requirement 1 (Innovations that Improve Outcomes for High-Need Students) directs applicants to focus on ''high-need students,'' defined in this document to include students at risk of educational failure or otherwise in need of special assistance and support. The Department has the discretion to select this and other requirements and priorities in future FITW competitions. If the Department applies this requirement in a future FITW competition, grantees would be required to indicate that they are focused on high-need students in response to all priorities that they choose to address. We believe that this requirement addresses the commenter's concerns and goals.

Changes: None.

Priority 7—Implementing Low Cost-High Impact Strategies To Improve Student Outcomes

Comment: Two commenters expressed support for Priority 7. The commenters recommended that the Department require all future grantees to use low cost-high impact strategies.

Discussion: We thank the commenters for this expression of support and concur that this is an important consideration. The Department has the discretion to decide which priorities to use in a given year, as well as how to designate those priorities (*i.e.,* absolute, competitive preference, or invitational), and may consider the commenters' suggestion in the future.

Changes: None.

Comment: Two commenters addressed strategies that use technology in Priority 7. One commenter recommended adding projects that examine whether access to technology is a barrier to effectively implementing low cost-high impact strategies. Another commenter noted that strategies that use technology are not always low cost, and recommended adding strategies that do not require technology, such as peer mentoring.

Discussion: We appreciate these commenters' suggestions. We note that projects that use technology to minimize cost are just one example under Priority 7. We believe that applicants are best able to determine how to meet this priority and that the priority does not limit the way that applicants may propose to use technology, if they choose to do so.

Changes: None.

Comment: One commenter recommended that the Department require grantees to track both costs and benefits of their projects. This would allow grantees to calculate the return on investment (ROI) for their project, which could be included in their evaluation. The commenter noted that the Leveraging What Works program, proposed in the Department's Fiscal Year 2016 Budget, would require grantees to annually report per-pupil expenditures and student outcomes in order to calculate ROI for selected interventions.

Discussion: We thank the commenter for this recommendation. A primary goal of the FITW program is to develop and replicate best practices in postsecondary education. As the commenter noted, FITW grantees are already required to conduct an independent evaluation of student outcomes, as described in Requirement 5 (Independent Evaluation) of this notice. We allow grantees and their independent evaluators to determine what should be included in this evaluation, provided that it is designed to meet relevant What Works Clearinghouse (WWC) Evidence Standards if well-implemented, as described in Requirement 6 (Evaluation Design). We also note that the Department establishes FITW performance measures, including cost per participant and cost per successful outcome.

Changes: None.

Comment: One commenter requested that we include subparts under Priority 7. The commenter noted that this would help applicants understand the goal of the priority.

Discussion: We appreciate the commenter's recommendation. The goal of this priority is to solicit projects that make efficient use of resources. The Department could also choose to use this priority in combination with other priorities. To ensure that we do not limit or narrow the types of projects that could be submitted under this priority, we decline to provide a specific list of tools to meet this goal. We also note that, in a particular competition, we can use this priority in combination with other priorities established in this NFP.

Changes: None.

Priority 8—Improving Postsecondary Student Outcomes at Minority-Serving Institutions

Comment: Several commenters expressed support for Priority 8. One commenter noted that the structure of the FITW program, in which awards can be made as Development, Validation, or Scale-up grants, makes it important for the Department to fund a diverse range of institutions, including two-year, four-year, public, and private non-profit institutions, and MSIs. Another commenter recommended that this priority be included as a competitive preference priority.

Discussion: We thank these commenters for their support. MSIs play a critical role in the country's postsecondary education system and in meeting our goal of again becoming first in the world in postsecondary attainment. In future competitions, the Department may choose to designate this priority as an absolute or competitive preference priority.

Changes: None.

Comment: One commenter recommended that the Department prioritize projects that define, operationalize, and measure outcomes for high-need student subpopulations under this priority.

Discussion: We agree that it is important to examine outcomes for high-need students, which is why the FITW program includes evaluation requirements (Requirements 5 and 6). The evaluation process helps grantees focus on which students are served by a particular intervention, as well as how they are served. We also include a definition of ''high-need student'' that illustrates specific student subpopulations that fall in this category. We believe that the requirement and definition meets the commenter's objectives, and that no further changes are necessary.

Changes: None.

Comment: One commenter recommended that we expand this priority to include institutions that serve large numbers of low-income students. The commenter suggested that these institutions could be defined by the percentage of students who receive Pell grants or other forms of Federal student financial aid.

Discussion: We agree that it is important to support low-income students and aim to do so through other aspects of this program. Students from low-income backgrounds are included in the definition of ''high-need students.'' Requirement 1 (Innovations that Improve Outcomes for High-Need Students) also addresses the needs of this group. In contrast to MSIs, which have a distinct mission and tradition of serving particular student populations, institutions that serve large numbers of students from low-income backgrounds fall into many different categories. Indeed, some MSIs might also meet the criteria the commenter has suggested. Nothing in this priority precludes these institutions from participating or disadvantages them in the competition. To make sure that this priority addresses the intended issues, we decline to further expand it.

Changes: None.

Priority 9—Systems and Consortia Focused on Large-Scale Impact

Comment: One commenter requested that the Department prioritize projects that track matriculation and transfer patterns within and between institutions within a postsecondary system or consortium.

Discussion: The aim of this priority is to encourage institutions and systems to collaborate to address key barriers to completion. While transfer certainly can be a barrier for some students, we feel that this issue is addressed under Priority 5 (Facilitating Pathways to Credentialing and Transfer). Priority 9 does not suggest particular strategies that systems and consortia should address, but rather a particular method by which to strengthen any given

strategy or approach proposed by the applicant.

Changes: None.

Comment: One commenter encouraged us to give additional points to consortia of institutions that use robust learning communities to share knowledge and disseminate best practices.

Discussion: We thank the commenter for this suggestion. The purpose of the FITW program is to develop and disseminate best practices in postsecondary education. As the commenter noted, learning communities are a promising method for sharing knowledge with others. However, we decline to make the commenter's suggested change because we wish to provide applicants with the flexibility to determine which methods of developing strong consortia would be most appropriate.

Changes: None.

Comment: Noting that applicants typically have between 30 and 60 days to submit an application after a notice inviting applications (NIA) is published, one commenter expressed concern that the open application period is too short to create consortia-based projects. The commenter suggested that the Department announce the focus of the competition in advance of the NIA. Alternatively, the Department could provide information for several years' competitions at once. This would allow consortia time to develop applications that meet the necessary evidence and large-scale impact requirements.

Discussion: The Department appreciates the work that applicants put into developing high-quality projects for this and other grant programs. We strive to provide as much time as possible to allow applicants to prepare their submissions. Indeed, one of our goals in developing these priorities was to provide greater overall guidance to potential applicants. Unfortunately, the constraints and timing of the annual budget and appropriations cycle do not permit us to provide information about multiple years of a grant program at one time.

Changes: None.

Comment: One commenter expressed strong support for Priority 9, noting that once an evidence base is established, large-scale reforms are most efficiently accomplished through systems. The commenter requested that we add a focus on State policy. Each grantee would be required to develop a policy work plan and identify several key levers needed to build support for and eliminate barriers to system redesign, scale, and student success.

Discussion: We appreciate the commenter's support and suggestions. States are critical partners in postsecondary education, and although policy work is not within the scope of this program, we encourage grantees to consider ways to collaborate with State and local stakeholders in their work. Priorities 4 (Developing and Using Assessments of Learning) and 5 (Facilitating Pathways to Credentialing and Transfer) both include a focus on systemic approaches and building partnerships. We believe applicants are best positioned to determine how to build these relationships, and thus we decline to make the specific additions requested.

Changes: None.

Comment: One commenter suggested that we give preference to consortia that include MSIs or institutions serving large numbers of students of color.

Discussion: We appreciate the commenter's suggestion. The FITW program encourages the work of these institutions through Priority 8 (Improving Postsecondary Student Outcomes at Minority-Serving Institutions) as well as through the definition of ''high-need student,'' which includes students of color. The Department does not believe that it is necessary to establish a priority for a particular kind of consortium because the Department could choose to combine Priority 9 with Priority 8 (Improving Postsecondary Student Outcomes at Minority-Serving Institutions). We believe such an approach would adequately address the commenter's concern.

Changes: None.

Comment: One commenter requested that State agencies of higher education be included as eligible applicants. According to the commenter, consistent with the purposes of Priority 9, these agencies offer access to statewide data, can identify statewide areas of need, and are able to coordinate partnerships among institutions.

Discussion: State higher education agencies have an important voice in postsecondary education systems and are eligible to apply for FITW grants. Eligible applicants for FITW, as described in this document, include an institution of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies.

Changes: None.

Comment: One commenter expressed support for Priority 9 and recommended that the Department consider how it might be applied to Validation and Scale-up grants. The commenter pointed out that the NPP suggests that this priority would only apply to Development grants. However, the commenter suggested that partners and collaborators could also help in expanding and adapting evidence-based strategies.

Discussion: We thank the commenter for raising this point. To clarify, the Department may choose to use any of the priorities established in this notice in a competition for any type of FITW grant (Development, Validation, or Scale-up). Although the NPP included a background section for Priority 9 that mentioned differences between types of grants, this was not intended to suggest that one type of grant would be better suited for this priority.

Changes: None.

Requirements

Requirements—General

Comment: One commenter noted that we stated in the NPP that the Department may use requirements, selection criteria, and definitions from the Education Department General Administrative Regulations (EDGAR). This commenter encouraged us to use EDGAR's evidence definitions and regulations supporting the use of evidence, data, and evaluation.

Discussion: We appreciate the commenter's suggestion. For FITW, the Department is permitted to use the evidence definitions and regulations in EDGAR as well as those established in this document. Thus, the Department may exercise the flexibility allowed by 34 CFR 75.226 (What procedures does the Secretary use if the Secretary decides to give special consideration to applications supported by strong evidence of effectiveness, moderate evidence of effectiveness, or evidence of promise?) to give competitive preference or establish a separate competition for applications supported by evidence of promise, moderate evidence of effectiveness, or strong evidence of effectiveness. The Department may also decide to use evidence-related selection criteria in 34 CFR 75.210. However, any use of those requirements, selection criteria, and definitions will be described in the notice inviting applications.

Changes: None.

Requirement 1—Innovations That Improve Outcomes for High-Need Students

Comment: Many commenters expressed strong support for this requirement. One commenter recommended that grantees be required to focus on low-income students and students of color. Two commenters

urged us to emphasize projects that enroll and graduate low-income, first-generation, and underprepared students. One commenter asked the Department to include this requirement in all FITW competitions.

Discussion: We thank the commenters for their support for this requirement. We concur that high-need students deserve better outcomes, and the FITW program aims to support the development and dissemination of tools that improve outcomes for these students in a variety of ways. The Department will consider whether to include this requirement in each year's competition. We also note that we allow applicants to determine which student subpopulations they will serve, and that low-income students and students of color are included as examples of student subpopulations in the definition of ''high-need student.'' This definition also includes an illustrative list of groups that face unique challenges, such as adult learners, working students, part-time students, students from low-income backgrounds, students of color, first-generation students, students with disabilities, and students who are English learners. We are adding ''students with disabilities'' to the illustrative list in the definition of ''high-need student'' for consistency with other ED programs, as discussed under *Definitions.*

Changes: None.

Comment: Stating that a focus on high-need students is timely, one commenter urged the Department to consider how these students are served by two-year institutions. These institutions vary in their size, location, and capacities, but many perform at the same level as their peers at four-year institutions.

Discussion: The Department appreciates the key role of two-year institutions in serving many of our country's high-need students. Two-year institutions were among the FITW recipients in the FY 2014 competition and we encourage such institutions to apply in future competitions. Because two-year institutions are eligible to apply for FITW grants, we do not believe it is necessary to revise this requirement to address them specifically.

Changes: None.

Comment: One commenter requested that the Department provide clarification on the definition of ''innovation'' in Requirement 1. For Validation and Scale-up grants, the commenter asked whether projects that make adjustments to proven programs in order to reduce costs would meet this requirement. In addition, the commenter asked whether the planned execution of an intervention constitutes an innovation.

Discussion: We thank the commenter for raising this issue for clarification. For the purposes of the FITW program, we define ''innovation'' to mean a process, product, strategy, or practice that improves (or is expected to improve) significantly upon the outcomes reached with status quo options and that can ultimately reach widespread effective usage. This definition is consistent with the definition used in the Investing in Innovation (i3) program, which is FITW's elementary and secondary education counterpart.

Changes: We have added a definition of the term ''innovation'' to the *Definitions* section of this notice.

Requirement 2—Eligibility

Comment: One commenter expressed enthusiasm for the inclusion of public and private non-profit agencies as eligible applicants. Another commenter asked for clarification of the definition of ''non-profit agencies.''

Discussion: We thank the commenter for this support. We intend to use the EDGAR definition of ''nonprofit'' in 34 CFR 77.1: ''Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.'' This definition will be included in any NIA that includes this requirement.

Changes: None.

Comment: One commenter asked for State systems of higher education to be considered eligible applicants. The commenter noted that these systems have a unique advantage in conducting rigorous evaluations due to their access to large numbers of students and robust datasets.

Discussion: State higher education agencies have an important voice in postsecondary education systems and are eligible to apply for FITW grants. Eligible applicants for FITW include an institution of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies.

Changes: None.

Requirement 3—Types of FITW Grants

Comment: One commenter requested that the Department specify that Scale-up grants include projects that use predictive analytics.

Discussion: We appreciate the commenter's suggestion, but decline to make this change. The purpose of this section is to identify types of grants, rather than define specific projects they could include. Several of the priorities could incorporate use of predictive analytics.

Changes: None.

Comment: Two commenters questioned our description of Development grant projects in the background section of the NPP as ''novel.'' One commenter asked us to clarify that innovations included in Development grant projects may not always be novel, but rather best practices that are brought to scale. The commenter suggested that projects should be required to innovate significantly from current design. Another commenter asked for examples of projects that would be considered novel and yet are supported by empirical evidence.

Discussion: We thank the commenters for these suggestions. As discussed above, we have added a definition of ''innovation'' in order to clarify expectations for projects under all grant types. The rationale for adding this definition is discussed elsewhere in this document. We believe that this definition clarifies the Department's expectations for the ways in which projects should differ from current design and can help applicants determine which types of projects would be considered novel and are supported by empirical evidence

Changes: We have added a definition of the term ''innovation'' to the *Definitions* section of this notice.

Comment: One commenter asked us to clarify whether rigorous evaluations, such as the use of randomized controlled trials, are the preferred methodology for conducting independent evaluations of Development grant projects.

Discussion: Requirements 4 (Evidence and Sample Size Standards) and 5 (Independent Evaluation) address expectations for evaluations of all types of grants. Further, Requirement 6 (Evaluation Design) is designed to indicate that the Secretary announces in the NIA which evaluation standard applies to which grant type.

Changes: None.

Comment: One commenter asked us to further clarify the difference between Validation and Scale-up grants. The commenter asked whether projects that replicate and adapt proven programs in new locations (for example, throughout colleges in a State or at several colleges in a system) would qualify for a Validation or a Scale-up grant.

Discussion: The primary difference between a Validation and a Scale-up grant lies in the level of evidence

supporting the proposed project. Validation grants must be supported by moderate evidence of effectiveness as defined in 34 CFR 77.1(c) whereas Scale-up grants would likely be supported by strong evidence of effectiveness, as defined in 34 CFR 77.1(c). Additionally, Scale-up grants would apply to projects with a larger number of sites, a greater variety of contexts, and a greater variety of students than Validation grants. These differences are explained in the *Background* section of the NPP.

Changes: None.

Requirement 4—Evidence and Sample Size Standards

Comment: One commenter asked us to clarify how the term ''multi-site'' is defined for Scale-up grants. The commenter asked whether a project that includes multiple colleges within the same system or multiple campuses within the same institution would meet the multi-site requirement.

Discussion: In 34 CFR 77.1, we define ''multi-site sample'' as ''more than one site, where site can be defined as an LEA, locality, or State.'' Subpart (d) of Requirement 4 further clarifies that a multi-site sample can include multiple institutions, while a scaled multi-site sample can include sites across a system of institutions, or across institutions in a State, region, labor market sector, or nationwide. We will announce in the NIA for any given FITW competition which requirement will apply to the Scale-up tier.

Changes: None.

Comment: One commenter asked for further clarification on overlapping samples as used for Scale-up grants. The commenter asked to what extent and along what dimensions populations should be required to overlap with the sample in a supporting study.

Discussion: We refer the commenter to subpart (e) of Requirement 4, which clarifies that projects must include the core aspects of a process, product, strategy, or practice from a supporting study as closely as possible. If the project proposes to adapt an intervention from a study, the applicant must provide justifications for these changes. It is the applicant's responsibility to determine whether and to what extent the population in the supporting study was a core aspect of its implementation.

Changes: None.

Comment: One commenter asked the Department to consider expanding the evidence requirements beyond the WWC Evidence Standards. The commenter suggested that evidence could be based on rigorous assessments with strong designs conducted by reputable evaluators.

Discussion: We thank the commenter for this suggestion. We note that the evidence standards included in this program meet the commenter's objectives. These standards include rigorous assessments, strong designs, and reputable evaluators. The evidence standards we use in the FITW program are consistent with EDGAR and are used widely across the Department's discretionary grant programs. We choose to use the WWC Evidence Standards so that this program can produce evidence of the highest possible quality. The WWC Evidence Standards were developed based on years of interaction with leading experts in program evaluation in the education field.

Changes: None.

Requirement 5—Evaluation

Comment: One commenter requested that we require grantees to report disaggregated student outcome data. At a minimum, the commenter proposed that we require data to be disaggregated by outcomes for low-income students and students of color. In addition, the commenter suggested that we require grantees to report outcomes for other high-need student populations.

Discussion: We thank the commenter for this suggestion. We agree that useable data on outcomes for high-need student subpopulations are critical to improving programs and services. However, we decline to make the proposed changes because this may not be possible or appropriate for all projects. We also note that the Department has established performance measures for FITW, including cost per successful outcome.

Changes: None.

Comment: None.

Discussion: Through the FITW program, the Department seeks to fund projects that can make a significant contribution to increasing knowledge about effective strategies for improving postsecondary education outcomes. For this reason, all FITW projects are required to use part of their budgets to conduct independent evaluations of their projects. Evaluation design is a significant consideration in ensuring that the independent evaluations help build evidence of effectiveness and generate replicable results. For that reason, we proposed in Requirement 5 that, in connection with the requirement that grantees conduct an independent evaluation, the evaluation design meet What Works Clearinghouse Evidence Standards. Although we believe that meeting these evidence standards is the best way to ensure a rigorous evaluation, we also recognize that these evaluation and evidence requirements may be new to many potential FITW applicants. Furthermore, through the selection criteria established in EDGAR, we can encourage applicants to propose rigorous project evaluations through the What Works Clearinghouse selection factors. Such an approach, which enables the Department to rely on the judgment of non-Federal reviewers with expertise in evaluation design without imposing a pass-fail requirement, may be preferable in any given year, particularly in the early years of this program. Accordingly, we believe that it would benefit potential applicants for the Department to retain the authority to use the independent evaluation requirement without using the requirement relating to evaluation design. We have clarified this distinction in the requirements.

Changes: We have separated proposed Requirement 5 into two requirements—Requirement 5, relating to the independent evaluation requirement, and Requirement 6, relating to evaluation design. We have renumbered the remaining requirements, accordingly.

Definitions

High-Need Student

Comment: One commenter recommended that the Department clarify the definition of ''high-need student'' to ensure that projects focus on low-income, first-generation, and academically underprepared students.

Discussion: We appreciate the commenter's concern that these students face unique challenges. However, we believe that the proposed definition of ''high-need student'' adequately includes the recommended student groups. The definition included in the NPP includes students who are at risk of educational failure, which could include students from low-income backgrounds and first-generation students. This definition also includes an illustrative list of groups that face unique challenges, such as adult learners, working students, part-time students, students from low-income backgrounds, students of color, first-generation students, students with disabilities, and students who are English learners. Very similar definitions are used in other Department programs, including i3 and Race to the Top, as well as in the Supplemental Priorities. We use the same definition in order to maintain consistency across multiple programs. We are adding ''students with disabilities'' to the

illustrative list in the definition of ''high-need student'' for consistency with other ED programs.

Changes: We have added ''students with disabilities'' to this definition.

Minority-Serving Institution

Comment: Two commenters addressed the definition of MSI. One commenter asserted that, similar to MSIs, community colleges enroll and serve a disproportionate number of high-need students. The commenter asked the Department to consider the unique operational issues of two-year colleges, even though they may not have the requisite enrollments of students of color to qualify as MSIs.

Another commenter proposed, in lieu of the definition for MSI, a new definition for Institutions with Large-Scale Impact for Minority Students. This proposed definition would refer to two-year or four-year institutions with sufficient capacity to affect large-scale change for Black, Latino, or American Indian students. The commenter proposed that an institution would be considered to have sufficient capacity under this definition if it enrolled at least 3,000 Black, Latino, or American Indian students.

Discussion: The definition of MSI comes from the Higher Education Act of 1965, as amended (HEA), and our intent is to be consistent with the law. We appreciate the commenters' interest in serving high-need students. We also agree that community colleges play a critical role in serving high-need students across the country. In addition, many community colleges are in fact MSIs. However, we decline to make the proposed changes to the definition of MSIs. Nothing in this definition, the priorities, or the authorizing statute prohibits eligible community colleges, regardless of MSI status, from applying to FITW programs, provided that the proposed project otherwise meets the requirements.

Changes: None.

Selection Criterion—Collaborations

Comment: One commenter supported this selection criterion. The commenter recommended that we include more specific emphasis on cross-functional collaborations and holistic program design, to promote continuous improvement and foster institutional cultures that embrace feedback.

Discussion: We thank the commenter for this suggestion. We agree that these types of collaborations can foster success. However, we believe that applicants are best equipped to design the collaborative structures that meet their needs.

Changes: None.

Final Priorities

Priority 1: Improving Success in Developmental Education

The Secretary gives priority to:

(a) Projects designed to improve student success in developmental education or accelerate student progress into credit-bearing postsecondary courses; or

(b) Projects designed to improve student success in developmental education or accelerate student progress into credit-bearing postsecondary courses through one or more of the following:

(i) Identifying and treating academic needs prior to postsecondary enrollment, including while in middle or high school, through strategies such as partnerships between K–12 and postsecondary institutions;

(ii) Diagnosing students' developmental education needs at the time of or after postsecondary enrollment, such as by developing alternatives to single measure placement strategies, and identifying specific content gaps in order to customize instruction to an individual student's needs;

(iii) Offering alternative pathways in mathematics, such as non-Algebra based coursework for non-math and science fields;

(iv) Accelerating students' progress in completing developmental education, through strategies such as modularized, fast-tracked, or self-paced courses or placing students whose academic performance is one or more levels below that required for credit-bearing courses into credit-bearing courses with academic supports;

(v) Redesigning developmental education courses or programs through strategies such as contextualization of developmental coursework together with occupational or college-content coursework; and

(vi) Integrating academic and other supports for students in developmental education.

Priority 2: Improving Teaching and Learning

The Secretary gives priority to:

(a) Projects designed to improve teaching and learning; or

(b) Projects designed to improve teaching and learning through one or more of the following:

(i) Instruction-level tools or strategies such as adaptive learning technology, educational games, personalized learning, active- or project-based learning, faculty-centered strategies that systematically improve the quality of teaching, or multi-disciplinary efforts focused on improving instructional experiences.

(ii) Program-level strategies such as competency-based programs that are designed with faculty, industry, employer, and expert engagement, use rigorous methods to define competencies, and utilize externally validated assessments, online or blended programs, or joint offering of programs across institutions.

(iii) Institution-level tools or strategies such as faculty-centered strategies to improve teaching across an institution, use of open educational resources, or tailoring academic content and delivery to serve the needs of non-traditional students.

Priority 3: Improving Student Support Services

The Secretary gives priority to:

(a) Projects designed to improve the supports or services provided to students prior to or during the students' enrollment in postsecondary education; or

(b) Projects designed to improve the supports or services provided to students prior to or during the students' enrollment in postsecondary education through one or more of the following:

(i) Integrating student support services, including with academic advising and instruction.

(ii) Individualizing or personalizing support services, such as advising, coaching, tutoring, or mentoring, to students and their identified needs using tools or strategies such as predictive analytics to identify students who may need specific supports, or behavioral interventions used to provide timely, relevant, and actionable information for students at critical points such as when they may be at risk of dropping out.

(iii) Connecting students to resources or services other than those typically provided by postsecondary institutions, such as providing assistance in accessing government benefits, transportation assistance, medical, health, or nutritional resources and services, child care, housing, or legal services.

(iv) Utilizing technology such as digital messaging to provide supports or services systematically.

Priority 4: Developing and Using Assessments of Learning

The Secretary gives priority to:

(a) Projects that support the development and use of externally validated assessments of student learning and stated learning goals; or

(b) Projects that support the development and use of externally validated assessments of student learning and stated learning goals through one or more of the following:

(i) Alternative assessment tools or strategies such as micro- or competency-based assessments, assessments embedded in curriculum, or simulations, games, or other technology-based assessment approaches.

(ii) Professional development or training of faculty and staff on the approaches to developing, using, and interpreting assessments.

(iii) Combining or sequencing assessments from multiple sources to strengthen diagnostic capabilities.

(iv) Aligning assessments across sectors and institutions, such as across kindergarten through grade 12 and postsecondary education systems or across two-year and four-year institutions, to improve college readiness and content delivery.

(v) Open-source assessments.

Priority 5: Facilitating Pathways to Credentialing and Transfer

The Secretary gives priority to:

(a) Projects designed to develop and implement systems and practices to capture and aggregate credit or other evidence of knowledge and skills towards postsecondary degrees or credentials; or

(b) Projects designed to develop and implement systems and practices to capture and aggregate credit or other evidence of knowledge and skills towards postsecondary degrees or credentials through one or more of the following:

(i) Seamless transfer of credits between postsecondary institutions.

(ii) Validation and transfer of credit for learning or learning experiences from non-institutional sources.

(iii) Alternate credentialing or badging frameworks.

(iv) Opportunities for students to earn college credits prior to postsecondary enrollment, such as through dual enrollment, dual degree, dual admission, or early college programs.

Priority 6: Increasing the Effectiveness of Financial Aid

The Secretary gives priority to:

(a) Projects designed to improve the effectiveness of financial aid; or

(b) Projects designed to improve the effectiveness of financial aid through one or more of the following:

(i) Counseling, advising, creation of information and resources, and other support activities on higher education financing and financial literacy delivered by financial aid offices or integrated with other support services provided by institutions, including on student loan repayment options such as income-driven repayment plans and public service loan forgiveness and debt management.

(ii) Personalized approaches to financial aid delivery, counseling, advising, and other support activities, which may include early warning systems, use of predictive analytics, need-based aid, emergency aid, or bonuses or other incentives for successful outcomes such as on-time academic progress and completion.

Priority 7: Implementing Low Cost-High Impact Strategies to Improve Student Outcomes

The Secretary gives priority to projects that use low-cost tools or strategies, such as those that use technology, that result in a high impact on student outcomes.

Priority 8: Improving Postsecondary Student Outcomes at Minority-Serving Institutions

The Secretary gives priority to projects designed to improve student outcomes at Minority-Serving Institutions (as defined in this notice).

Priority 9: Systems and Consortia Focused on Large-scale Impact

The Secretary gives priority to projects that involve consortia of institutions, including across a college or university system, and partnerships with leading experts that are implemented at multiple sites with large sample sizes to allow for more rapid development, evaluation, and scaling of practices determined to be effective.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Assistant Secretary for Postsecondary Education establishes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

1. *Innovations that Improve Outcomes for High-Need Students:* The Secretary may require that—

(a) Grantees must implement projects designed to improve outcomes of high-need students (as defined in this notice) in postsecondary education; or

(b) Grantees must implement projects designed to improve one or more of the following outcomes of high-need students (as defined in this notice) in postsecondary education:

(i) Persistence.

(ii) Academic progress.

(iii) Time to degree.

(iv) Completion.

2. *Eligibility:* The Secretary may make grants to, or enter into contracts with, one or more of the following:

An institution of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies.

The Secretary will announce the eligible applicants in the NIA.

3. *Types of FITW Grants:* Awards may be made for Development grants, Validation grants, and Scale-up grants. The Secretary will announce the type of grants that applicants may apply for in the NIA.

4. *Evidence and Sample Size Standards:* To be eligible for an award—

(a) An application for a Development grant must be supported by one of the following:

(i) Evidence of promise (as defined in 34 CFR 77.1(c)).

(ii) Strong theory (as defined in 34 CFR 77.1(c)).

(iii) Evidence of promise or strong theory.

The Secretary will announce in the NIA which evidence standard will apply to a Development grant in a given competition. Under (a)(iii), applicants must identify whether their application is supported by evidence of promise or strong theory.

(b) An application for a Validation grant must be supported by moderate evidence of effectiveness (as defined in 34 CFR 77.1(c)).

(c) An application for a Scale-up grant must be supported by strong evidence of effectiveness (as defined in 34 CFR 77.1(c)).

(d) The Secretary may require that an application for a Development grant, Validation grant, or Scale-up grant must be supported by one or more of the following levels of sample size:

(i) Large sample (as defined in 34 CFR 77.1(c)).

(ii) Multi-site sample (as defined in 34 CFR 77.1(c)), such as at multiple institutions.

(iii) Scaled multi-site sample, such as across a system of institutions, across institutions in a State, a region, or nationally, or across institutions in a labor market sector.

The Secretary will announce in the NIA which sample size standards will apply to each type of FITW grant (Development, Validation, or Scale-up) that is available.

(e) Where evidence of promise, moderate evidence of effectiveness, or strong evidence of effectiveness is required to receive a grant, an applicant's project must propose to implement the core aspects of the process, product, strategy, or practice from the supporting study as closely as possible. Where modifications to a cited process, product, strategy, or practice will be made to account for student or institutional characteristics, resource limitations, or other special factors or to address deficiencies identified by the cited study, the applicant must provide a justification or basis for the modifications. Modifications may not be proposed to the core aspects of any cited process, product, strategy, or practice.

5. *Independent Evaluation:*

(a) The grantee must conduct an Independent Evaluation (as defined in this notice) of its project. The evaluation must estimate the impact of the FITW-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in 34 CFR 77.1(c)).

(b) The grantee must make broadly available, digitally and free of charge, through formal (*e.g.,* peer-reviewed journals) or informal (*e.g.,* newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. The grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

(c) The grantee and its independent evaluator must agree to cooperate on an ongoing basis with any technical assistance provided by the Department or its contractor, including any technical assistance provided to ensure that the evaluation design meets the required evaluation standards, and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation and provide the updated evaluation plan to the Department. All of these updates must be consistent with the scope and objectives of the approved application.

6. *Evaluation Design:* The evaluation design for a Development grant, Validation grant, or Scale-up grant must meet one or either of the following standards:

(i) What Works Clearinghouse Evidence Standards (as defined in 34 CFR 77.1(c)) without reservations; or

(ii) What Works Clearinghouse Evidence Standards (as defined in 34 CFR 77.1(c)) with reservations.

The Secretary will announce in the NIA the evaluation standard(s) that will apply to each type of FITW grant (Development, Validation, or Scale-up) that is available.

7. *Funding Categories:* An applicant will be considered for an award only for the type of FITW grant (Development, Validation, and Scale-up) for which it applies. An applicant may not submit an application for the same proposed project under more than one type of grant.

8. *Limit on Grant Awards:* The Secretary may choose to deny the award of a grant to an applicant if the applicant already holds an active FITW grant from a previous FITW competition or, if awarded, would result in the applicant receiving more than one FITW grant in the same year.

9. *Management Plan:* Within 100 days of a grant award, the grantee must provide an updated comprehensive management plan for the approved project in a format and using such tools as the Department may require. This management plan must include detailed information about implementation of the first year of the grant, including key milestones, staffing details, and other information that the Department may require. It must also include a complete list of performance metrics, including baseline measures and annual targets. The grantee must update this management plan at least annually to reflect implementation of subsequent years of the project and provide the updated management plan to the Department.

Final Selection Criterion

The Assistant Secretary for Postsecondary Education establishes the following selection criterion for evaluating an application under this program. We may apply this criterion or any of the selection criteria from 34 CFR part 75 in any year in which this program is in effect. In the NIA, the application package, or both, we will announce the maximum points assigned to each selection criteria.

1. *Collaborations:* The extent to which the proposed project is designed to engage individuals or entities with expertise, experience, and knowledge regarding the project's activities, such as postsecondary institutions, non-profit organizations, experts, academics, and practitioners.

Final Definitions

The Assistant Secretary for Postsecondary Education establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

1. *High-need student* means a student at risk of educational failure or otherwise in need of special assistance and support such as adult learners, working students, part-time students, students from low-income backgrounds, students of color, first-generation students, students with disabilities, and students who are English learners. **Note:** The Department acknowledges that the definition of high-need students is not limited to these categories. This definition is for illustrative purposes and may include other categories of high-need students.

2. *Independent evaluation* means an evaluation that is designed and carried out independent of and external to the grantee, but in coordination with any employees of the grantee who develop a process, product, strategy, or practice and are implementing it.

3. *Innovation* means a process, product, strategy, or practice that improves (or is expected to improve) significantly upon the outcomes reached with status quo options and that can ultimately reach widespread effective usage.

4. *Minority-serving institution* means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice of final priorities does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, selection criterion,

and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements, selection criterion, and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of potential costs and benefits:

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the FITW program are the generation of a body of evidence for what works in postsecondary education through development, evaluation, and dissemination of innovative strategies to support students who are at risk of failure in persisting in and completing their postsecondary programs of study. The priorities, requirements, definitions, and selection criterion announced in this notice will provide applicants a framework for achieving the goals and objectives of the FITW program.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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.

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: May 5, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–11333 Filed 5–8–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; First in the World Program—Development Grants

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

Fund for the Improvement of Postsecondary Education (FIPSE)—First in the World (FITW) Program—Development Grants

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116F.

Dates:

Applications Available: May 11, 2015.

Deadline for Transmittal of Applications: June 30, 2015.

Deadline for Intergovernmental Review: August 31, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The FITW program is designed to support the development, replication, and dissemination of innovative solutions and evidence for what works in addressing persistent and widespread challenges in postsecondary education for students who are at risk for not persisting in and completing postsecondary programs, including, but not limited to, adult learners, working students, part-time students, students from low-income backgrounds, students of color, students with disabilities, and first-generation students. The focus of the FITW program is to build evidence for what works in postsecondary education by testing the effectiveness of these strategies in improving student persistence and completion outcomes.

For FY 2015, the Department will award two types of grants under this program: ''Development'' grants and ''Validation'' grants. These grants differ in terms of the level of evidence of effectiveness required for consideration of funding, the level of scale the funded project should reach, and, consequently, the amount of funding available to support the project.

This notice invites applications for Development grants only. Development grants will support new or substantially more effective practices for addressing widely shared challenges. Applications for Development grants must be based on Strong Theory (as defined in this notice). The Department has published a separate notice inviting applications for Validation grants elsewhere in this issue of the **Federal Register**.

Priorities: This notice contains three absolute priorities and one competitive preference priority.

These priorities are from the notice of final priorities, requirements, definitions, and selection criterion for this program (NFP), published elsewhere in this issue of the **Federal Register**.

Absolute Priorities: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that address one of the three absolute priorities. Applicants must specify on the Abstract and Information page of their applications which absolute priority is addressed in the application. For Absolute Priority 2 and Absolute Priority 3, we have identified multiple subparts. Applicants that address one of these absolute priorities must select one subpart that the proposed project will address to meet the absolute priority.

These priorities are:

Absolute Priority 1: Improving Teaching and Learning

The Secretary gives priority to:

Projects designed to improve teaching and learning through:

Instruction-level tools or strategies such as adaptive learning technology, educational games, personalized learning, active- or project-based learning, faculty-centered strategies that systematically improve the quality of teaching, or multi-disciplinary efforts focused on improving instructional experiences.

Note: A large percentage of students in postsecondary education struggle academically because they arrive to college unprepared for college-level coursework.[1] These struggles make the prospect of dropping out more likely.[2] Further, for students who do complete their courses and programs, the limited available information on learning proficiency suggests that too many students are lacking the critical thinking, analytical, and communication skills needed for the workforce.[3] These challenges may be more acute for the types of students that now make up the majority of students enrolled in postsecondary education: Adult learners, working students, part-time students, students from low-income backgrounds, students of color, and first-generation students. On the other hand, the research base on cognitive science continues to grow, employers are becoming more specific in the competencies they desire, data analytics offers greater and more targeted insights, and new technologies offer the potential for new methods and more differentiated instruction.

Despite these challenges and opportunities, innovations in how students experience learning in college remain largely small scale or limited to a small number of institutions. With some exceptions, the same degrees and other credentials are offered in the traditional ways, by counting numbers of courses taken or hours taught. Methods of teaching have stayed largely static, with the traditional lecture as the core instructional design. New approaches to teaching and learning, such as tools and strategies that go beyond the traditional lecture to support active learning, and that actively engage learners or customize learning, must be tested and expanded to more postsecondary institutions to improve accessibility and quality and reduce cost.

Absolute Priority 2: Developing and Using Assessments of Learning

The Secretary gives priority to:

Projects that support the development and use of externally validated assessments of student learning and stated learning goals through one of the following:

(a) Alternative assessment tools or strategies such as micro- or competency-based assessments, assessments embedded in curriculum, or simulations, games, or other technology-based assessment approaches.

(b) Aligning assessments across sectors and institutions, such as across kindergarten through grade 12 and postsecondary education systems or across two-year and four-year

[1] Xianglei Chen and others, Academic Preparation for College in the High School Senior Class of 2003–04: Education Longitudinal Study of 2002 (ELS: 2002), Base-year, 2002, First Follow-up, 2004, and High School Transcript Study, 2004 (Washington: U.S. Department of Education, National Center for Education Statistics, January 2010); Jay Greene and Greg Foster, ''Public High School Graduation and College Readiness Rates in the United States,'' Working Paper 3 (New York: Manhattan Institute, Center for Civic Information, Education, September 2003). Greene and Foster define being minimally ''college ready'' as: Graduating from high school, having taken four years of English, three years of mathematics, and two years of science, social science, and foreign language, and demonstrating basic literacy skills by scoring at least 265 points on the National Assessment of Educational Progress in reading.

[2] Eric Bettinger and Bridget Terry Long, ''Addressing the Needs of Under-Prepared College Students: Does College Remediation Work?'' Journal of Human Resources 44, no. 3 (2009); Brian Jacob and Lars Lefgren, ''Remedial Education and Student Achievement: A Regression-Discontinuity Analysis,'' Review of Economics and Statistics 86, no. 1 (2004): 226–44.

[3] Arum, Richard and Roksa, Josipa, *Academically Adrift: Limited Learning on College Campuses* (University of Chicago Press, January 2011).

institutions, to improve college readiness and content delivery.

Note: Learning assessment has shown promise as an effective instructional strategy to increase student success. While learning assessment, in the past, focused more on traditional testing, current assessment has expanded to assess not just what students know but also what they can do, and is embedded in ways that inform instruction on an ongoing basis. Further, a knowledge-based economy requires assessment of higher-order thinking skills such as analysis, synthesis, and transfer; along with ''non-cognitive'' capacities such as mindset, persistence, and other qualities. New forms of assessments must be developed for these purposes and tested for their benefits to students. Assessments are also needed to measure what is learned outside the classroom, such as through previous work experience, workplace or community-based experiences, and other high impact engagements.

Absolute Priority 3: Facilitating Pathways to Credentialing and Transfer

The Secretary gives priority to:

Projects designed to develop and implement systems and practices to capture and aggregate credit or other evidence of knowledge and skills towards postsecondary degrees or credentials through one of the following:

(a) Seamless transfer of credits between postsecondary institutions; or

(b) Validation and transfer of credit for learning or learning experiences from non-institutional sources.

Note: Students obtain knowledge and skills through a variety of experiences and from a range of institutions and providers. Many postsecondary students attend more than one institution on their way to earning a certificate or degree. Further, many student learning experiences, such as learning that occurs through work experience or from non-traditional education providers, are simply not recognized.

Alternate systems and methods of assessing, aggregating, and credentialing learning experiences are needed to help more students reach completion in accelerated timeframes. Additionally, new systems of portable, stackable postsecondary degrees and credentials along transparent career pathways must be designed and opportunities to obtain such degrees and credential must be expanded.

Competitive Preference Priority: For FY 2015, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending how well the application meets this priority. Applicants must clearly mark the Abstract and Information page in the application package if they intend to address this competitive preference priority.

Note: Given the limited resources of secondary schools, institutions of higher education, and other relevant stakeholders, the cost effectiveness of any intervention designed to improve student outcomes is of primary importance. In recent years, numerous institutions, researchers, and others have begun testing interventions that are relatively low cost but have the ability to have a high impact on student outcomes. Many of these interventions minimize cost through the use of technology, such as digital messaging or predictive analytics to target interventions. Others incorporate low cost approaches, such as non-cognitive interventions. We are particularly interested in effective low cost interventions because even institutions with limited resources would be able to scale such strategies to impact large numbers of students, and, such interventions, particularly those that use technology, are often easily replicable.

This priority is:

Implementing Low Cost-High Impact Strategies To Improve Student Outcomes (Up to 5 Points)

The Secretary gives priority to projects that use low-cost tools or strategies, such as those that use technology, that result in a high impact on student outcomes.

The selection criteria for the FY 2015 Development competition are designed to ensure that applications selected for funding have the best potential to generate substantial improvements and research in student outcomes, and include well-articulated plans for the implementation, dissemination, and evaluation of the proposed projects. Applicants should review the selection criteria and submission instructions carefully to ensure their applications address this year's criteria.

Requirements: The following requirements are from the NFP and apply to all applications submitted under this competition:

(a) *Innovations That Improve Outcomes for High-Need Students:* Grantees must implement projects designed to improve one or more of the following outcomes of high-need students (as defined in this notice) in postsecondary education: Persistence, academic progress, time to degree or and completion.

(b) *Evidence Standards:* To be eligible for an award, an application for a Development grant must be supported by Strong theory (as defined in 34 CFR 77.1(c)).

(c) *Independent Evaluation:*

(i) The grantee must conduct an Independent Evaluation (as defined in this notice) of its project. The evaluation must estimate the impact of the FITW-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in 34 CFR 77.1(c)).

(ii) The grantee must make broadly available, digitally and free of charge, through formal (*e.g.,* peer-reviewed journals) or informal (*e.g.,* newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. The grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

(iii) The grantee and its independent evaluator must agree to cooperate on an ongoing basis with any technical assistance provided by the Department or its contractor, including any technical assistance provided to ensure that the evaluation design meets the required evaluation standards, and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation and provide the updated evaluation plan to the Department. All of these updates must be consistent with the scope and objectives of the approved application.

(d) *Funding Categories:* An applicant will be considered for an award only for the type of FITW grant (Development or Validation) for which it applies. Applicants may not apply for a FITW competition in which they currently have an active FITW grant. An applicant may submit only one FITW application in FY 2015.

(e) *Management Plan:* Within 100 days of a grant award, the grantee must provide an updated comprehensive management plan for the approved project in a format and using such tools as the Department may require. This management plan must include detailed information about implementation of the first year of the grant, including key milestones, staffing details, and other information that the Department may require. It must also include a complete list of performance metrics, including baseline measures and annual targets. The grantee must update this management plan at least annually to reflect implementation of subsequent years of the project and provide the updated management plan to the Department.

Definitions:

The following definitions are from the NFP and from 34 CFR 77.1 and apply

to the priorities, requirements, and selection criteria in this notice:

High-need student means a student at risk of educational failure or otherwise in need of special assistance and support such as adult learners, working students, part-time students, students from low-income backgrounds, students of color, first-generation students, students with disabilities, and students who are English learners. (**Note:** The Department does not limit the definition of high-need students to this list. This list is illustrative and may include other categories of high-need students).

Independent evaluation means an evaluation that is designed and carried out independent of and external to the grantee, but in coordination with any employees of the grantee who develop a process, product, strategy, or practice and are implementing it.

Logic model (also referred to as a theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationship among the key components and outcomes, theoretically and operationally.

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the HEA.

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve, consistent with the specific goals of a program.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

What Works Clearinghouse evidence standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The NFP.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $60,000,000 total for the FITW program, with up to $16,000,000 set aside for Minority-Serving Institutions (MSIs), in accordance with the Joint Explanatory Statement accompanying the Consolidated and Further Continuing Appropriations Act of 2015. In implementing this set aside, the Department may fund high-quality applications from MSIs out of rank order in the competition for Development grants, Validation grants or in both competitions. We plan to allocate at least $20 million for Development grants but the actual amount will depend on the quality of the proposals for both competitions.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 or later years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $1,000,000 to $3,000,000.

Estimated Average Size of Awards: $2,000,000.

Maximum Award: We will not fund any application that proposes a budget exceeding $3,000,000 for a single budget period of 48-months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 6 to 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies.

To qualify as an eligible MSI under the FITW Program, an institution of higher education must meet one of two criteria:

The first criterion includes: Current eligibility approval as defined by the Department's FY 2015 eligibility process for Title III and/or Title V of the Higher Education Act of 1965, as amended; an open grant under one of the Department's Title III, Parts A and F and/or Title V programs; or a designation as a Historically Black College or University or a Tribally Controlled College.

The second criterion includes: Specific enrollment percentages for minority students served; and, if applicable, needy student and educational and general expenditure criteria for determining income eligibility.

More information on MSI eligibility is in the application package under the section entitled *Eligibility.* The Department will screen the applications to verify MSI eligibility based on these criteria and, if applicable, will use the most recent Integrated Postsecondary Education Data System data. In the event an application does not qualify for MSI eligibility, it will still be reviewed.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs).

To obtain a copy via the Internet, use the following address: *www.ed.gov/*

fund/grant/apply/grantapp/index.html. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You also can contact ED Pubs at its Web site: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.116F.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria and the competitive preference priority that reviewers use to evaluate your application. You must limit the section of the application narrative that addresses:

- The selection criteria to no more than 30 pages, and
- The competitive preference priority to no more than 2 pages.

Accordingly, under no circumstances may the application narrative exceed 32 pages.

Please include a separate heading for the competitive preference priority if you choose to address it.

For purposes of determining compliance with the 32-page limit, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, endnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application may be single spaced.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The 32-page limit does not apply to Part I, the cover sheet, the table of contents; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or Abstract and Information page, the resumes (three-page limit per resume), the citations or full studies, appendix, or letters of support.

If you include any attachments or appendices not specifically requested and required for the application, these items will be counted as part of the narrative for the purposes of the page limit.

3. *Submission Dates and Times:*

Applications Available: May 11, 2015.

Deadline for Transmittal of Applications: June 30, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements.*

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 31, 2015.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:*

To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative

(AOR), and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the First in the World Program, CFDA number 84.116F, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the First in the World Program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.116, not 84.116F).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Gary Thomas, First in the World, U.S. Department of Education, 1990 K Street NW., Room 6153, Washington, DC 20006–8544. FAX: (202) 502–7877.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA 84.116F, LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA 84.116F, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this Development competition are from 34 CFR 75.210. The points assigned to each criterion are indicated in parentheses. We will award up to a total of 100 points to an application under the selection criteria.

A. Significance (Up to 20 Points)

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

1. The potential contribution of the proposed project to increased knowledge or understanding of education problems, issues, or effective strategies.

2. The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

3. The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

B. Quality of the Project Design (Up to 30 Points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

1. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

2. The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

3. The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

C. Adequacy of Resources (Up to 20 Points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

1. The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

2. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

3. The qualifications, including relevant training and experience, of the project director or principal investigator.

4. The qualifications, including relevant training and experience, of the key project personnel.

D. Quality of the Project Evaluation (Up to 30 Points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are specified and measurable.

2. The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's

effectiveness that would meet the What Works Clearinghouse Evidence Standards with reservations.

3. The extent to which the methods of evaluation will, if well-implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards without reservations.

4. The qualifications, including relevant training and experience, of project consultants or subcontractors.

Note: Successful applications will be those that have an evaluation design that has the potential to meet the What Works Clearinghouse Evidence Standards with or without reservations. The What Works Clearinghouse Procedures and Standards Handbook describes in detail which types of study designs can meet WWC Evidence Standards with or without reservations including both quasi-experimental design studies and randomized controlled trials (as defined in this notice). The response to this selection criterion should include a description of the total unduplicated number of students involved in the project. The term project consultants include the person or firm conducting the independent evaluation (as defined in this notice). The applicant is encouraged to select an evaluator with experience in the design and management of evaluations designed to meet What Works Clearinghouse Evidence Standards.

We encourage eligible applicants to review the following technical assistance resources on evaluation:

(1) What Works Clearinghouse Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and

(2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/.*

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Prior to making awards, we will screen applications submitted in accordance with the requirements in this notice to determine which applications meet the eligibility requirements. This screening process may occur at various stages of the application review process; applicants that are determined ineligible will not be considered further or be awarded a grant. For the application review process, we will use independent peer reviewers with varied backgrounds and professions in postsecondary education including college and university educators, researchers and evaluators, strategy consultants, grant makers and managers, and others with postsecondary education expertise. All reviewers will be thoroughly screened for conflicts of interest to ensure a fair and competitive review process.

For FITW Development grant applications the Department will use a two-tier review process to review and score eligible applications. Content reviewers will review and score eligible applications on the three selection criteria: A. Significance; B. Quality of the Project Design; and C. Adequacy of Resources. These reviewers will also review and score the applications which address the competitive preference priority. Eligible applications that score highly on these three selection criteria will have the remaining criterion, D. Quality of the Project Evaluation, reviewed and scored by a different panel of peer reviewers with evaluation expertise.

Finally, if there are two or more applications with the same final score and there are insufficient funds to fully support these applications, the Department will consider an equitable distribution of grants among geographic locations.

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

To ensure that the Federal investment of these funds has as broad an impact as possible and to encourage innovation in the development of new learning materials, FITW grantees will be required to license to the public all intellectual property (except for computer software source code, discussed below) created with the support of grant funds, including both new content created with grant funds and modifications made to pre-existing, grantee-owned content using grant funds. That license must be worldwide, non-exclusive, royalty-free, perpetual, irrevocable, and grant the public permission to access, reproduce, publicly perform, publicly display, adapt, distribute, and otherwise use the intellectual property referenced above (except for computer software source code, discussed below) for any purposes, conditioned only on the requirement that attribution be given to authors as designated. Further, the Department requires that all computer software source code developed or created with FITW funds will be released under an intellectual property license that allows others to freely use and build upon them.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/*

fund/grant/apply/appforms/appforms.html.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department will use the following performance measures in assessing the successful performance of FIPSE's FITW grants:

(a) The extent to which funded projects are replicated (*i.e.,* adopted or adapted by others).

(b) The extent to which projects are institutionalized and continued after funding.

(c) The extent to which the metrics used to assess and evaluate project results measure performance under the absolute priority the project is designed to address.

(d) The percentage of projects supported by FITW grants that produce evidence of their effectiveness (*i.e.,* meet What Works Clearinghouse Evidence Standards with or without reservations) at improving student outcomes and college affordability, especially for low-income students.

(e) The percentage of projects supported by FITW grants that provide high-quality implementation data and performance feedback that allow for periodic assessment of progress toward achieving intended outcomes.

(f) The cost per student served by FITW grants.

(g) The cost per successful student outcome.

If funded, you will be asked to collect and report data from your project on steps taken toward achieving the outcomes evaluated by these performance measures. Consequently, applicants are advised to include these outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Gary Thomas, U.S. Department of Education, 1990 K Street NW., Room 6153, Washington, DC 20006–8544. Telephone: 202–502–7677. You may send emails to *OPEFITWdevlopment@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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.

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: May 5, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–11336 Filed 5–8–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; First in the World Program—Validation Grants

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

Fund for the Improvement of Postsecondary Education (FIPSE)—First in the World (FITW) Program—Validation Grants

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116X.

Dates:

Applications Available: May 11, 2015.

Deadline for Transmittal of Applications: June 30, 2015.

Deadline for Intergovernmental Review: August 31, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The FITW program is designed to support the development, replication, and dissemination of innovative solutions and evidence for what works in addressing persistent and widespread challenges in postsecondary education for students who are at risk for not persisting in and completing postsecondary programs, including, but not limited to, adult learners, working students, part-time students, students from low-income backgrounds, students of color, students with disabilities, and first-generation students. The focus of the FITW program is to build evidence for what works in postsecondary education by testing the effectiveness of these strategies in improving student persistence and completion outcomes.

For FY 2015, the Department will award two types of grants under FITW: ''Development'' grants and ''Validation'' grants. These grants differ in terms of the level of evidence of effectiveness required for consideration of funding, the level of scale the funded project should reach, and, consequently, the amount of funding available to support the project.

This notice invites applications for Validation grants only. Validation grants provide funding to support the expansion and replication of projects supported by moderate evidence of effectiveness (as defined in this notice) to a scaled multi-site sample (as defined in this notice), which would include multiple institutions of higher education, including multiple institutions within a State system.

All Validation grantees must evaluate the effectiveness of the project at each partner entity. The evaluation design will be assessed on the extent to which it could meet What Works Clearinghouse Evidence Standards (as defined in this notice) without reservations.

The Department has published a separate notice inviting applications for Development grants elsewhere in this issue of the **Federal Register**.

Priorities: This notice contains four absolute priorities. The first three absolute priorities are from the notice of final priorities, requirements, definitions, and selection criterion for this program (NFP), published elsewhere in this issue of the **Federal Register**. The fourth absolute priority is from the Department's notice of final supplemental priorities and definitions for discretionary grant programs (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425).

Absolute Priorities: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider

only applications that address one of the four absolute priorities. Applicants must specify on the Abstract and Information page which absolute priority is addressed in the application.

These priorities are:

Absolute Priority 1: Improving Success in Developmental Education

The Secretary gives priority to:

Projects designed to improve student success in developmental education or accelerate student progress into credit-bearing postsecondary courses.

Note: Many students arrive at college unprepared for college-level coursework. They often lack the critical thinking, analytical, and communication skills needed for success in college and preparation for the workforce.

This priority invites applications for evidence-based interventions and solutions that engage students more quickly in credit-bearing courses, such as streamlined approaches through GED equivalency or high school credential equivalency for adult learners to allow them to begin taking formal postsecondary coursework.

Absolute Priority 2: Improving Teaching and Learning

The Secretary gives priority to projects designed to improve teaching and learning.

Note: Methods of teaching have stayed largely static, with the traditional lecture as the core instructional design. New approaches to teaching and learning that incorporate curriculum and course re-design, such as by using tools and strategies that go beyond the traditional lecture to support active learning or customize learning, must be tested and expanded to more postsecondary institutions to improve accessibility and quality and reduce cost.

Absolute Priority 3: Improving Student Support Services

The Secretary gives priority to projects designed to improve the supports or services provided to students prior to or during the students' enrollment in postsecondary education.

Note: Almost all institutions of higher education offer a diverse array of student support services to assist with financial aid, academic barriers and other issues related to persistence and completion. The range of services and support is extensive and includes interventions both inside and outside the classroom and campus. Many of these services are also provided by outside organizations, including non-profits.

However, few student support services strategies are widely implemented on the basis of evidence of effectiveness. There is a great need to expand validated cost effective approaches, so that a greater number of students can be served.

Absolute Priority 4: Influencing the Development of Non-Cognitive Factors

The Secretary gives priority to projects that are designed to improve students' mastery of non-cognitive skills and behaviors (such as academic behaviors, academic mindset, perseverance, self-regulation, social and emotional skills, and approaches toward learning strategies) and enhance student motivation and engagement in learning.

Note: The development of non-cognitive factors is critical during the postsecondary years as students face new academic challenges, social comparisons, and stereotypes regarding their potential for success. How students negotiate these changes has major implications for their academic futures.

The selection criteria for the FY 2015 Validation competition are designed to ensure that applications selected for funding have the best potential to generate substantial improvements and research in student outcomes, and include well-articulated plans for the implementation, dissemination, and evaluation of the proposed projects. Applicants should review the selection criteria and submission instructions carefully to ensure their applications address this year's criteria.

Applicants should note that we screen for eligibility at multiple points before, during, and after the review process. Applicants that are determined to be ineligible at any point in the review process will not receive a grant award regardless of peer reviewer scores or comments. If we determine that a Validation grant application is not supported by moderate evidence of effectiveness, either because the study submitted does not meet the standard or is not closely relevant to the proposed project, the application will not be considered for funding.

Requirements: The following requirements are from the NFP and apply to all applications submitted under this competition:

(a) *Innovations that Improve Outcomes for High-Need Students:* Grantees must implement projects designed to improve one or more of the following outcomes of high-need students (as defined in this notice) in postsecondary education:

(i) Persistence.

(ii) Academic progress.

(iii) Time to degree.

(iv) Completion.

(b) *Evidence and Sample Size Standards:*

(i) An application for a Validation grant must be supported by moderate evidence of effectiveness (as defined in 34 CFR 77.1(c)).

(ii) An application for a Validation grant must be supported by the following level of sample size: Scaled multi-site sample, such as across a system of institutions, across institutions in a State, a region, or nationally, or across institutions in a labor market sector.

(iii) An applicant's project must propose to implement the core aspects of the process, product, strategy, or practice from the supporting study as closely as possible. Where modifications to a cited process, product, strategy, or practice will be made to account for student or institutional characteristics, resource limitations, or other special factors or to address deficiencies identified by the cited study, the applicant must provide a justification or basis for the modifications. Modifications may not be proposed to the core aspects of any cited process, product, strategy, or practice.

(c) *Evaluation:*

(i) The grantee must conduct an independent evaluation (as defined in this notice) of its project. The evaluation must estimate the impact of the FITW-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in 34 CFR 77.1(c)).

(ii) The grantee must make broadly available, digitally and free of charge, through formal (*e.g.,* peer-reviewed journals) or informal (*e.g.,* newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. The grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

(iii) The grantee and its independent evaluator must agree to cooperate on an ongoing basis with any technical assistance provided by the Department or its contractor, including any technical assistance provided to ensure that the evaluation design meets the required evaluation standards, and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation and provide the updated evaluation plan to the Department. All of these updates must be consistent with the scope and objectives of the approved application.

(d) *Funding Categories:* An applicant will be considered for an award only for the type of FITW grant (Development or Validation) for which it applies. Applicants may not apply for a FITW competition in which they currently have an active FITW grant. An applicant may submit only one FITW application in FY 2015.

(e) *Management Plan:* Within 100 days of a grant award, the grantee must provide an updated comprehensive management plan for the approved project in a format and using such tools as the Department may require. This management plan must include detailed information about implementation of the first year of the grant, including key milestones, staffing details, and other information that the Department may require. It must also include a complete list of performance metrics, including baseline measures and annual targets. The grantee must update this management plan at least annually to reflect implementation of subsequent years of the project and provide the updated management plan to the Department.

Definitions

The following definitions are from the NFP and from 34 CFR 77.1 and apply to the priorities, requirements, and selection criteria in this notice:

High-need student means a student at risk of educational failure or otherwise in need of special assistance and support such as adult learners, working students, part-time students, students from low-income backgrounds, students of color, first-generation students, students with disabilities, and students who are English learners. (**Note:** The Department does not limit the definition of high-need students to this list. This list is illustrative and may include other categories of high-need students).

Independent evaluation means an evaluation that is designed and carried out independent of and external to the grantee, but in coordination with any employees of the grantee who develop a process, product, strategy, or practice and are implementing it.

Large sample means an analytic sample of 350 or more students (or other single analysis units), or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units).

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of Title III, under part B of Title III, or under Title V of the Higher Education Act of 1965, as amended (HEA).

Moderate evidence of effectiveness means one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations, found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(b) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations, found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). **Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.

Multi-site sample means more than one site, where site can be defined as a local educational agency, locality, or State.

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit any private shareholder or entity.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve, consistent with the specific goals of a program.

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The NFP. (e) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Available Funds: $60,000,000 total for the FITW program, with up to $16,000,000 set aside for Minority-Serving Institutions (MSIs), in accordance with the Joint Explanatory Statement accompanying the Consolidated and Further Continuing Appropriations Act of 2015. In implementing this set aside, the Department may fund applications from MSIs out of rank order in this competition, in the competition for Development grants or in both. We may allocate up to $40 million for Validation grants but the actual amount will

depend on the quality of the proposals in the Development and Validation grant competitions.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 or later years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $6,000,000 to $10,000,000.

Estimated Average Size of Awards: $7,000,000.

Maximum Award: We will not make an award for any application above the maximum award of $10,000,000 for a single budget period of 48 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 0–5.

Note: The Department is not bound by any estimates in this notice.

Project Period: 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies.

To qualify as an eligible MSI under the FITW program, an institution of higher education must meet one of two criteria. The first criterion includes: Current eligibility approval as defined by the Department's FY 2015 eligibility process for Title III and/or Title V of the Higher Education Act of 1965, as amended; an open grant under one of the Department's Title III, Parts A and F and/or Title V programs; or a designation as a Historically Black College of University or a Tribally Controlled College. The second criterion includes: Specific enrollment percentages for minority students served; and, if applicable, needy student and educational and general expenditure criteria for determining income eligibility.

More information on MSI eligibility is in the application package under the section entitled *Eligibility.* The Department will screen the applications to verify MSI eligibility based on these criteria and, if applicable, will use the most recent Integrated Postsecondary Educational Data Systems data. In the event an application does not qualify for MSI eligibility, it will still be reviewed.

2. *Cost Sharing or Matching.* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapp/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.116X.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. There is a limit for the application narrative of no more than 35 pages using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit for the application does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract and information page, the resumes (three-page limit per resume), the bibliography, the appendices, or the letters of support.

3. *Submission Dates and Times:*

Applications Available: May 11, 2015.

Deadline for Transmittal of Applications: June 30, 2015.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 31, 2015.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants for the FITW program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the FITW program, CFDA number 84.116X (Validation grants), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the FITW program at *www.Grants.gov.* You must search for the downloadable application package for this program this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.116, not 84.116X).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk,

toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Frank Frankfort, U.S. Department of Education, 1990 K Street NW., Room 6166, Washington, DC 20006.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116X), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116X), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for the Validation competition are from 34 CFR 75.210 and the NFP. The points assigned to each criterion are indicated in parentheses. We will award up to a total of 100 points to an application under the selection criteria.

A. *Significance* (up to 20 points).

The Secretary considers the significance of the proposed project. In determining the significance of the project, the Secretary considers the following factors:

1. The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

2. The extent to which the proposed project is likely to yield findings that may be utilized by other appropriate agencies and organizations.

3. The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

B. *Quality of the Project Design* (up to 30 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the proposed project design, the Secretary considers the following factors:

1. The extent to which the design of the proposed project includes a thorough, high-quality review of the

relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

2. The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

3. The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

C. *Adequacy of Resources* (up to 20 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the quality of the adequacy of resources for the proposed project, the Secretary considers the following factors:

1. The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

2. The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

3. The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

4. The qualifications, including relevant training and experience, of the project director or principal investigator.

D. *Quality of Project Evaluation* (up to 30 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the project evaluation to be conducted, the Secretary considers the following factors:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

2. The extent to which the methods of evaluation will, if well-implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards without reservations.

3. The qualifications, including relevant training and experience, of project consultants or subcontractors.

Note: Successful applications will be those that have an evaluation design that has the potential to meet the What Works Clearinghouse Evidence Standards without reservations. The response to this selection criterion should include a description and number of students who will receive the intervention at each partner institution as well as a description and number of students to whom they will be compared at each partner institution. Finally, applicants should also address whether the person or firm conducting the independent evaluation (as defined in this notice) has experience in the design and management of evaluations designed to meet What Works Clearinghouse Evidence Standards.

We encourage eligible applicants to review the following technical assistance resources on evaluation:

(1) What Works Clearinghouse Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and

(2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/.*

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

Before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine whether the application meets the eligibility requirements. This screening process may occur at various stages of the process. Applicants that are determined to be ineligible at any stage of the review process will not be considered further or receive a grant.

We will use independent peer reviewers with varied backgrounds and professions, such as college and university educators, researchers and evaluators, social entrepreneurs, strategy consultants, and others with education expertise for the peer review process. All reviewers will be thoroughly screened for conflicts of interest to ensure a fair and competitive review process. Peer reviewers will read the assigned applications, prepare a written evaluation, and score the applications using the selection criteria provided in this notice.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For FITW Validation grant applications the Department will create review panels comprised of content and evaluation experts. Content reviewers will review all eligible proposals but score only the first three selection criteria: A. Significance; B. Quality of the Project Design; and C. Adequacy of Resources. Evaluation experts will review all eligible proposals but score only the fourth criterion, D. Quality of the Project Evaluation.

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

To ensure that the Federal investment of these funds has as broad an impact as possible and to encourage innovation in the development and dissemination of learning materials, FITW grantees will be required to license to the public all intellectual property (except for computer software source code, as discussed below) created with the support of grant funds, including both new content created with grant funds and modifications made to pre-existing, grantee-owned content using grant funds. That license must be worldwide, non-exclusive, royalty-free, perpetual, irrevocable, and grant the public permission to access, reproduce, publicly perform, publicly display, adapt, distribute, and otherwise use the intellectual property referenced above

(except for computer software source code, discussed below) for any purposes, conditioned only on the requirement that attribution be given to authors as designated. Further, the Department requires that all computer software source code developed or created with FITW funds will be released under an intellectual property license that allows others to freely use and build upon them.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. You must also submit a final evaluation report. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. You must also submit an annual evaluation report. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures.* Under the Government Performance and Results Act of 1993, the Department will use the following performance measures in assessing the successful performance of FIPSE's FITW grants:

(1) The extent to which funded projects are replicated (*i.e.,* adopted or adapted by others).

(2) The extent to which projects are institutionalized and continued after funding.

(3) The extent to which the metrics used to assess and evaluate project results measure performance under the absolute priority the project is designed to address.

(4) The percentage of projects supported by FITW grants that produce evidence of their effectiveness (that meets What Works Clearinghouse Evidence Standards without reservations) at improving student outcomes and college affordability, especially for low-income students.

(5) The percentage of projects supported by FITW grants that provide high-quality implementation data and performance feedback that allow for periodic assessment of progress toward achieving intended outcomes.

(6) The cost per student served by FITW grants.

(7) The cost per successful student outcome.

If funded, you will be asked to collect and report data from your project on steps taken toward achieving the outcomes evaluated by these performance measures.

Consequently, applicants are advised to include these outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Frank Frankfort, U.S. Department of Education, 1990 K Street NW., Room 6166, Washington, DC 20006–8544. Telephone: (202) 502–7513. FAX: (202) 502–7877 or by email. You may send emails to *OPEFITWValidation@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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.

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Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: May 5, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–11337 Filed 5–8–15; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL REGISTER

Vol. 80 Monday,
No. 90 May 11, 2015

Part IV

The President

Notice of May 8, 2015—Continuation of the National Emergency With Respect to the Central African Republic

Federal Register
Vol. 80, No. 90
Monday, May 11, 2015

Presidential Documents

Title 3—

The President

Notice of May 8, 2015

Continuation of the National Emergency With Respect to the Central African Republic

On May 12, 2014, by Executive Order 13667, I declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in and in relation to the Central African Republic, which has been marked by a breakdown of law and order, intersectarian tension, widespread violence and atrocities, and the pervasive, often forced recruitment and use of child soldiers, and that threatens the peace, security, or stability of the Central African Republic and neighboring states.

The situation in and in relation to the Central African Republic continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 12, 2014, to deal with that threat must continue in effect beyond May 12, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13667.

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

THE WHITE HOUSE,
May 8, 2015.

[FR Doc. 2015–11531
Filed 5–8–15; 11:15 am]
Billing code 3295–F5

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