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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. APHIS–2011–0049]

RIN 0579–AD64

Viruses, Serums, Toxins, and Analogous Products; Single Label Claim for Veterinary Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations to provide for the use of a simpler labeling format that would better communicate product performance to the user. Under this rulemaking, the previous label format, which reflected any of four different levels of effectiveness, is replaced with a single, uniform label format. We are also requiring biologics licensees to provide a standardized summary, with confidential business information removed, of the efficacy and safety data submitted to the Animal and Plant Health Inspection Service in support of the issuance of a full product license or conditional license. A simpler label format, along with publicly available safety and efficacy data, will help biologics producers to more clearly communicate product performance to their customers.

DATES: Effective September 8, 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; (301) 851–3426.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) administers and enforces the Virus-Serum-Toxin Act, as amended (21 U.S.C. 151–159). The regulations issued pursuant to the Act are intended to ensure that veterinary biological products are pure, safe, potent, and efficacious when used according to label instructions. The regulations in 9 CFR part 112, ''Packaging and Labeling,'' (referred to below as the regulations) prescribe requirements for the packaging and labeling of veterinary biologics. The regulations ensure that labeling provides adequate information concerning the proper use and safety of the product, including vaccination schedules, warnings, and cautions.

APHIS guidelines provide examples of label claims that may be used to reflect the expected performance of the product, provided that appropriate efficacy data has been submitted and approved by APHIS. Prior to this rulemaking, the guidelines, contained in APHIS Veterinary Services Memorandum No. 800.202 (*http://www.aphis.usda.gov/animal_health/vet_biologics/publications/memo_800_202.pdf*), described performance requirements and allowable indications statements for four different levels (tiers) of effectiveness.

On April 21, 2014, we published in the **Federal Register** (79 FR 22048–22051, Docket No. APHIS–2011–0049) a proposal [1] to amend the Virus-Serum-Toxin Act regulations to provide for the use of a simpler labeling format than the existing one. Specifically, we proposed to replace the previous four-tier label format with a single, uniform label format. We also proposed to require biologics licensees to provide a standardized summary, with confidential business information removed, of the efficacy and safety data submitted to APHIS in support of the issuance of a full product license or conditional license. The proposed requirements for a simpler label format and the provision of publically available safety and efficacy data were intended to help biologics producers more clearly communicate product performance to their customers.

We solicited comments concerning our proposal for 60 days ending June 20, 2014. We received seven comments by that date. They were from veterinary biologics laboratories, trade associations, a veterinarians' association, and individuals. They are discussed below by topic.

Labeling Requirements

One commenter noted that in both the preamble to the April 2014 proposed rule and the accompanying economic analysis, we stated that the removal of the four-tiered efficacy labeling structure will simplify our evaluation of efficacy studies by focusing on a basic claim of effectiveness, resulting in a reduction of the time required for evaluation and a likely reduction in the number of studies being found unacceptable. The commenter requested further explanation of how those benefits will result from this rulemaking.

As a result of this rulemaking, APHIS will be able to evaluate these studies for product efficacy rather than whether or not the data demonstrate a higher efficacy tier or ''stronger'' label claim. For example, under the four-tiered efficacy system, if efficacy data is submitted to support the claim of ''Prevention of infection,'' the data must be analyzed with a very high degree of confidence to determine if it meets the criteria of preventing all colonization or replication of the challenge organism in vaccinated and challenged animals. This is considered an extremely strong claim and would entail a more extensive statistical analysis, as compared to a claim of ''Aids in disease control,'' for which the data needs to demonstrate that the product alleviates disease severity or reduces disease duration. Conducting data reviews with the aim of determining whether a product is effective rather than how ''strong'' its label claim is will simplify and streamline our review process. Fewer studies will be found unacceptable because the data will only have to show that the product is efficacious rather than having to support a label claim of a particular level of strength.

One commenter stated that the title of the April 2014 proposed rule, specifically its reference to single label claims, was misleading. The commenter stated that the proposed rule related to

[1] To view the proposed rule, its supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0049.*

a single efficacy indications statement rather than a single label claim. Label claims, according to the commenter, are numerous and not limited to the efficacy/indication statement.

Throughout this rulemaking, as well as in the Veterinary Services Memorandum referred to above, APHIS has used the term ''label claim'' to represent the level of efficacy of the product, as demonstrated by the manufacturer, based on approved data. Taken in context, the meaning of the term should be clear to readers.

A commenter stated that APHIS should provide for the continued use of distinct label statements for various diseases/syndromes, primary parameters in the case definition, or other situations in which such label statements would be appropriate. According to the commenter, the indications statement contained in the April 2014 proposed rule would not fit certain cases, such as those where the indication for a biological product is to reduce the shedding of an organism or reduce viremia.

We are not making any changes to the rule text based on this comment. The proposed text in § 112.2(a)(5) was sufficiently flexible to allow the indications statement to be modified to include a specific parameter associated with the case definition of a disease syndrome. For example, with acceptable data, the indications statement could read, ''This product has been shown to be effective for the vaccination of healthy swine____ weeks of age or older against the respiratory form of porcine reproductive and respiratory syndrome.''

A commenter stated that the April 2014 proposed rule offered no foundation for our conclusion that the change in labels will provide clarity for vaccine users. According to the commenter, there is no evidence that a significant percentage of the vaccine users will read the labels and choose to look up the required data summary of the studies on the Web site. The commenter stated that, contrary to what we claimed in the preamble to the April 2014 proposed rule, the proposed labeling requirements would make labeling more complex rather than simpler.

We disagree with this comment. In our view, providing safety and efficacy data, combined with a simpler labeling format, will allow the end user to better assess product performance. We developed the proposed requirements in cooperation with stakeholders and the public. In 2009, APHIS met with representatives of veterinary biologics manufacturers and the American Veterinary Medical Association, which represents the largest group of consumers of veterinary biologics. We were informed that the current labeling indications were confusing and did not provide sufficient insight into the actual performance of the product. Further, in 2011, APHIS held a public meeting to discuss effectiveness indications statements and received additional feedback from the public on draft guidelines concerning effectiveness indications statements on labels. The proposed labeling requirements, therefore, reflect the views of both APHIS and entities and individuals potentially affected by this rulemaking.

In the preamble to the April 2014 proposed rule, we stated that products for which efficacy data are no longer available should indicate on the label that the data are not available because the product was licensed ''x'' years ago. A commenter suggested that the required statement should be modified to remove the reference to a year or specific date in order to preclude the need to update the label on an annual basis.

We agree with this comment. APHIS guidelines regarding label claims will be revised as this final rule is implemented. The new guideline regarding products for which efficacy data is no longer available will read as follows: ''Original efficacy data is not available because the product was licensed in (date).'' This change will preclude the need to update the label each year.

A commenter stated that a common adverse event warning should appear on all biologics. The same commenter also recommended that we institute an active adverse event reporting structure.

While those issues are beyond the scope of the current rulemaking, APHIS does recognize the need for adverse event warnings and reporting. We intend to address the issues in a future rulemaking.

A commenter stated that in the proposed rule, we did not adequately consider the potential impact of the required label changes upon the export of currently licensed veterinary biological products. In the commenter's view, APHIS must allow the continued use of currently approved export labels (containing the tiered claims and establishment number) for all products licensed at the time this rule becomes effective.

Requirements for export labels are beyond the scope of the present rulemaking. APHIS is open to working with industry and the public regarding transition of international labels, as we have done in the past.

A commenter stated that as a logical next step in our effort to standardize labeling requirements for biological products, we should require standardized pregnant animal language for product labels. The commenter offered examples of pregnant animal language that could be used on labels.

This comment is beyond the scope of the present rulemaking.

A commenter requested more guidance as to the basic efficacy threshold for licensure of new products, stating that neither the current efficacy thresholds nor the manner in which they are determined for novel products was mentioned in the April 2014 proposed rule.

Our methodology for statistical and scientific review of efficacy data will not change under this rulemaking. We will continue to evaluate data based on the primary outcome and clinically relevant outcomes of the study. Guidance for efficacy studies can be found on the Center for Veterinary Biologics home page under ''Biologics Regulation and Guidance'' (*http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalhealth?1dmy&urile=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Our_Focus%2FSA_Animal_Health%2FSA_Vet_Biologics*).

Implementation of Proposed Requirements

In the preamble to the April 2014 proposed rule, we indicated that for currently licensed products, manufacturers would have to submit a standardized summary of efficacy and safety data and the revised labels to APHIS within 4 years of the effective date of this final rule. Licensees would have the option of requesting an extension for up to 2 years.

Some commenters questioned whether we could realistically implement the proposed requirements in 4 years without tremendous disruption to APHIS operations, the biologics industry, and the consumer. It was also suggested that we could be diverted from ongoing review and approval activities because instituting the proposed new requirements would necessitate that APHIS management and staff perform a number of new tasks. Such an additional workload, it was further suggested, may be especially problematic at a time when we already may not have adequate resources due to budget pressure. One commenter recommended that we phase in the requirements over a period of 8 years. In addition, commenters requested clarification on how the phase-in of the requirements will be approached and communicated to the public, such that

the rollout and public promotions are coordinated.

We do not agree that the 8-year implementation period recommended by one commenter is needed. In our view, a 4-year phase-in of the labeling and data summary requirements, with additional extensions of up to 2 years allowed under certain conditions, will provide manufacturers and consumers with adequate time to adapt to the requirements. We further intend to implement the requirements by species (*i.e.* poultry products, then equine products, etc.) in order to ease the impact on the industry and end users. Implementing the requirements in this manner will also minimize the impact on APHIS personnel with respect to ongoing review and approval activities.

Some commenters noted that on January 13, 2011, APHIS had published an earlier proposed rule in the **Federal Register** (76 FR 2268–2277, Docket No. APHIS–2008–0008) that also proposed changes to the labeling requirements for veterinary biological products. Commenters recommended that APHIS finalize and implement the two rules simultaneously for the benefit of industry and for end users, who will be encountering these new labels for the first time, and that we coordinate the implementation timeline with industry.

APHIS agrees with commenters that implementing the rules concurrently would be advantageous for end users and industry. We intend to finalize the rules in as close proximity to one another as possible and to coordinate their implementation with industry.

Data Summary Requirements

Some commenters addressed issues related to the scope of the proposed data summary requirement. It was suggested that the April 2014 proposed rule was not clear as to the studies that will need to be summarized and appear on the APHIS Web site. A commenter stated that only ''pivotal'' efficacy and safety studies should be included and that reference requalification or other studies that do not lead to a change in a label claim should not be among those summarized. It was also recommended that, for safety summaries, only field safety studies should be included, as they are the most clinically relevant.

We do not agree with these comments. The purpose of the summaries is to present efficacy and safety data in a non-confusing manner. Efficacy data summaries will include information regarding study design and associated raw data used to license the product, and the results of each study will be evaluated in terms of statistical and clinical relevance to the disease in question. Because each study is unique in terms of health status of the animals, environmental conditions, challenge model/strain, and other factors, limiting the range of the studies in the manner recommended by the commenters could mean that relevant efficacy data would not be made available to the public.

Some commenters raised concerns related to the parameters we listed in the preamble to the April 2014 proposed rule for the data summaries. These included, among others, the minimum and maximum age of the target species; the diversity of target species; the number of animals in the study; whether animals are client-owned; the serologic status of animals (including presence or absence of maternal antibody when appropriate); and dosage, timing, and route of administration. It was noted that we do not currently require information on some of these items. The issues raised by these commenters are discussed individually in the paragraphs that follow.

Commenters stated that the maximum age of the target species should be removed from the list of parameters. It was stated that because older animals have better developed immune systems and are more resistant to infection, the minimum age utilized in the study is more important to the field use of the vaccine than the maximum.

It was also recommended by one commenter that the term ''diversity of target species'' be removed from the list of parameters. The commenter stated that the term is vague and, if meant to distinguish among categories (*e.g.,* layers vs. broilers, or breeds), it is immunologically irrelevant.

Another commenter stated that the serological status of the animals in the study should not be included unless it is relevant to the label claim. If that is not the case, according to the commenter, the information is not useful.

We have already noted that efficacy data summaries will need to include information regarding study design and associated raw data used to license the product. The study parameters listed in the preamble to the April 2014 proposed rule, however, were examples rather than requirements. Further guidance documents, including but not limited to, a users' guide, will be developed by APHIS to provide, among other things, additional clarification of the parameters associated with the data summaries. These guidance documents, which are discussed in greater detail later in this document, will be released by APHIS and made available for public review and comment.

Some commenters expressed concerns that our parameters for the data summaries could potentially lead to exposure of confidential business information. One commenter stated that clarification was needed that the reference to ''dose'' related to the volume and not to the potency of the vaccine. The potency of the vaccine reflects antigen content and is confidential business information that has been historically protected by APHIS, according to the commenter. The same commenter also asserted that the case definition and data regarding the concentration of the challenge organism should be removed from the list of parameters for the same reason. The commenter suggested that the ''strength'' of challenge can be assessed by the morbidity/mortality observed in the controls versus the vaccinates. Another commenter stated that the primary outcome and clinically relevant outcomes of the study used for analysis were confidential business information that should not be required in the summaries.

As noted above, the parameters listed in the preamble of the April 2014 proposed rule were provided as examples only, not as requirements. The studies that will be summarized and included on the APHIS Web site are those studies that demonstrate product efficacy and safety sufficient for product licensure. We will not require the data summaries to include case definitions or statistical results of an inferential nature (*e.g.,* confidence intervals and p values). Biologics licensees will provide a summary of their data, with confidential business information removed. Such information will be protected, thus preventing competitors from using efficacy and data summaries for marketing, promotion, or advertising initiatives. APHIS will provide guidance to the industry, in the form of a users' guide and other guidance documents, regarding the appropriate use of data summaries for use in marketing, promotion, and/or advertising.

A commenter stated that the proposed rule was unclear about the type of explanatory statistical information that will need to be included in the data summaries, given that we indicated that the summaries will not include statistical information of an inferential nature.

The purpose of the summaries is to present efficacy and safety data in a non-confusing manner. Because these data summaries may be read by persons with little to no medical/scientific background, some statistical data may be confusing to such readers. Additionally, including some statistical

information in the data summaries may, in some cases, raise or lower the public's opinion of a given product, which would be contrary to the intent of this initiative. However, there are some instances (*e.g.,* lung lesions as a primary outcome) where statistical terms may be beneficial to the practitioner or other medically trained persons. We will require each data summary to include a statement referring the reader to consult their veterinarian for interpretation of the data. In addition, as noted above, APHIS will provide guidance to the industry regarding the use of data summaries for use in marketing, promotion, and/or advertising.

Some commenters noted that the April 2014 proposed rule did not include a format for the summaries. It was suggested that there is a lack of consistency in how the firms present information and what APHIS reviewers consider acceptable and that if customers are reading the product summaries on the Web site, this variability could have a large effect on the public perception of different companies' products. Given that possibility, it was suggested that APHIS should provide information on its Web site to educate users on the complex nature of efficacy studies, as well as explanatory statistical information, where appropriate, related to individual data summaries. Commenters requested more information regarding the nature of such materials and stated that APHIS should allow input from the regulated industry in the development of both the format and content of the summaries and the educational materials.

As indicated in the preamble to the April 2014 proposed rule, given the large number of diseases, vaccine types, and efficacy models, it is not possible to standardize the study design for all efficacy studies. We will, however, seek industry input regarding the development of a data summary template and educational guide. These documents will then be made available on our Web site in draft form for public comment.

Guidance Documents and Web Site

Some commenters emphasized the need for a general users' guide or other guidance documents to supplement this final rule. It was suggested that, among other things, our guidance documents should address advertising and promotion of products under the new system. Commenters stated that such documents should indicate that the data in the summaries is intended to provide information relative to the licensure of a product, that comparisons among the products with differing experimental models is not scientifically valid, and that we preclude manufacturers from making such comparisons in advertising and promotion outside of head-to-head studies.

We agree with these comments and, as noted above, we will release a users' guide and other guidance documents as this final rule is being implemented, and we will make the documents available on our Web site in draft form for public comment. For the purposes of marketing, promotion, or advertising, the manufacturers will be allowed to include a statement on promotional and advertising material referring the user to the APHIS Web site, where additional efficacy and safety data may be found. Promotional studies would not be disclosed on the Web site. This policy is consistent with previous guidelines and regulations and would not confer an advantage to any particular manufacturer.

A commenter suggested that our Web site should contain a ''click through'' requiring a person wanting to access the data summaries to ''click'' to indicate he or she has read the statements on the limitation of data comparisons before accessing the material.

We will consider this comment as we craft the Web site that will house the educational material and efficacy and safety summaries.

Commenters stated that the Web address allowing users to access the data summaries is too long and not user friendly. The commenters suggested that the URL should fit on a label and that, in addition, we should allow the Web address to be excluded from very small labels.

We agree with these comments. The new Web address reads as follows: *productdata.aphis.usda.gov.* We will also allow the Web address to be excluded from very small labels.

Additional Comments

A commenter stated that clarification was needed regarding how the requirements contained in this final rule would apply to in-vitro diagnostics, which are subject to the same restrictions as vaccines and other in-vivo products.

As indicated in the preamble to the April 2014 proposed rule, diagnostic products are not covered under this rulemaking. Further, the rulemaking is not applicable to allergenic extracts or autogenous products.

Several commenters expressed concern that the economic analysis provided with the April 2014 proposed rule underestimated the costs associated with the implementation of this rule. The issues raised by the commenters are discussed individually in the paragraphs that follow.

One commenter stated that in that economic analysis, we significantly underestimated the costs of preparing safety and efficacy summaries, which we estimated to be $55 per summary, and product labels, which we estimated to be $99 to $500 per label. According to the commenter, current preparation of labels involves input and review by scientific, commercial, and regulatory staff, preparation of label artwork, generation of printing specifications, generation of controlled documentation for the label, formal review and approval processes, submission to APHIS for approval, and then formal implementation into the production process. Another commenter stated that the cost estimates provided in the economic analysis to demonstrate lack of significant economic impact seem very optimistic, particularly the costs of preparing the summaries, as well as the costs of development of new labels and product outlines for the entire vaccine line.

We used cost range information for label changes from a model developed by The Food and Drug Administration. The model estimates the cost of labeling changes in consumer labeling regulations. While not directly applicable to veterinary biologics labeling changes, the model does include cost range information on various areas pertinent to a veterinary biologics label change.

We agree that label changes go through multiple approval steps. However, because the rule does not require any new scientific content, changing the text on the label to fit with the rule requirements should be much simpler than the comment would imply. The estimates of costs we included in the analysis of the proposed rule do include ranges for administrative and recordkeeping costs associated with labeling changes. Those costs to manufacturers include understanding the regulation, determining their responses, tracking the required change throughout the labeling change process, and reviewing and updating their records of product labels.

These labeling cost ranges were used in reference to the cost for products for which label changes could be coordinated with planned label changes that occur in the normal course of business, and only included administrative and recordkeeping costs. For label changes that cannot be coordinated with planned label changes, we also included other types of costs, such as prepress, graphic design, and

label printing and materials. Those costs are not attributable to the regulation if the labeling is coordinated with a planned change. We have included additional information on the composition of the costs within the economic analysis that accompanies this final rule.

After considering these comments, we did revise our estimate of the cost of preparing a summary. We continue to believe that it will take approximately 1 hour to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The rule does not require any new scientific content, and the new summary format requirement is simply a repackaging of existing information on a product that has already been collected and assembled as part of the initial licensing process. This activity will most likely be done by a mid-level manager, who will most likely already be very familiar with the product in question, and this labor will cost a manufacturer about $55. We do acknowledge, however, that there will be some further management review involved. Therefore, we are including another one-half hour of management time to our estimate of the cost of preparing a summary. The revised estimate is $83 per summary.

A commenter noted that in the preamble to the July 2014 proposed rule, we stated that most labels would be replaced in the normal course of business regardless of this rule, given the 4- to 6-year implementation timeframe. The commenter disagreed, estimating that approximately 20 percent of the labels for existing products would be replaced as normal practice. The commenter suggested that the number of entities that would incur the expenses associated with replacing labels as a result of this rulemaking will be far larger than we projected.

We respectfully disagree. Of the approximately 11,700 active, approved labels, 53 percent, or about 6,200, are no more than 4 years old, suggesting that a similar number will be replaced in the ordinary course of business during the implementation period. We therefore considered 53 percent to be an appropriate percentage to use to estimate the number of products for which regulatory labeling changes can be coordinated with otherwise planned labeling changes.

One commenter, representing a manufacturer, stated that we did not factor in the cost of replacing printing plates for existing labels, thereby significantly underestimating the economic burden placed on that entity by this rulemaking.

In the proposed rule, we did not include the cost of conventional printing plates. Based on our review of all labels for licensed biologics, we concluded that the general practice among manufacturers is to use computer-generated labels. However, to be conservative in our cost estimates for this final rule, we assume that 5 percent of labels are printed using conventional printing plates. Therefore, we added cost estimates for conventional printing plates for 5 percent of the labeling changes that cannot be coordinated with otherwise planned label changes.

A commenter stated that the posting of quantitative results accompanying the studies would be valuable for veterinarians.

Basic statistical data may be applicable to certain disease situations, such as when lesion consolidation is a primary outcome. Such data will be presented in terms of the number of animals exhibiting (controls) and not exhibiting (vaccinates) clinical signs of disease out of the total numbers of animals vaccinated or not vaccinated. For safety studies, the number of animals presenting with adverse reactions to vaccination out of the total number of animals will be included in the data.

Miscellaneous

In addition to the changes described above that we are making in response to the comments we received, we are making an editorial change for the sake of clarity. In § 112.2(a)(5) of the April 2014 proposed rule, we proposed to require an indications statement to read, ''This product has been shown to be effective for the vaccination of healthy animals ____ weeks of age or older against ____.'' In order to clarify that the specific animal species must be included on the label, we are amending that sentence to read as follows: ''An indications statement to read, ''This product has been shown to be effective for the vaccination of healthy (insert name of species) ____ weeks of age or older against ____.''

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866 and 13563 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.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which 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, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic 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**.

We are amending the Virus-Serum-Toxin Act regulations to require the use of a simpler labeling format. Biologics licensees and permittees will also be required to provide a standardized summary of the efficacy and safety data.

This rule will simplify the evaluation of efficacy studies, thereby reducing the amount of time required by APHIS to evaluate study data. A novel veterinary biological product can generate revenue in the neighborhood of $5 to $10 million per year. Increased efficiencies in the generation and evaluation of efficacy data should result in fewer delays in bringing a product to market. In addition, a simpler label may benefit those manufacturers, both large and small, who export their products, as foreign manufacturers do not use a tiered approach to label claims.

This rule will affect all veterinary biologics licensees and permittees. Currently, there are approximately 100 veterinary biological establishments, including permittees. These companies produce about 1,900 different products, and there are about 11,700 active approved labels for veterinary biologics. There were about 3,100 labels submitted for approval from June 2012 through May 2013, by about two-thirds of the companies.

Costs of the rule for licensees and permittees are not expected to be significant, whether the affected entity is small or large. APHIS anticipates that the only costs associated with the new labeling format will be one-time costs incurred by licensees and permittees in having labels for existing licensed

products reformatted in accordance with the rule. Most biologics companies, in the course of normal business, use a just-in-time method for producing new labels and readily alter their content. Because the label changes due to this rule will only require new text and not a label redesign, they are considered minor changes.

Products that are not yet licensed but are within 6 months of licensure at the time these regulations become effective will be expected to be fully compliant no later than 1 year after licensure. Products that are more than 6 months away from licensure at the time these regulations become effective will be expected to be fully compliant at the time of licensure. For products that are currently licensed, the standardized summary of efficacy and safety data and the revised labels will have to be submitted to APHIS within 4 years of the time these regulations become effective. APHIS will consider written requests to extend the time period for submitting the summaries by an additional 2 years if necessary.

We estimate that, in total, this rule will cost veterinary biological establishments between $1.1 million and $4.1 million, with a median estimate of about $2.4 million. Costs associated with the rule for an individual manufacturer will depend on the extent of the changes required, type of printing method used, and whether the label changes can be coordinated with planned label changes. All affected manufacturers will incur administrative and recordkeeping costs, that is, costs associated with understanding the regulation, determining responses, tracking the required changes throughout the labeling change process, and reviewing and updating their records of product labels. For label changes not coordinated with planned label changes, costs will also include labor and materials associated with generating the new labels, such as prepress, graphic design, and label printing. Those costs are not attributable to the regulation if the labeling revisions are coordinated with planned changes.

In many instances manufacturers will not have to produce new labeling materials before they would otherwise do so in the normal course of business and will only incur additional administrative and recordkeeping costs to track the changes. Costs incurred for minor label changes that are coordinated with planned label changes are estimated to range between $99 and $500 per label. We estimate that there are about 6,200 labels associated with about 1,000 products for which there will be this type of coordinated change, and the total cost is estimated to range between $99,000 and $500,000.

Costs incurred for minor label changes that cannot be coordinated with planned label changes include costs for prepress, graphic design, and printing the labels, in addition to administrative and recordkeeping activities. We expect that about 5,500 of the active labels, associated with about 900 products, will be changed other than in conjunction with a planned change. Administrative and recordkeeping costs for these label changes are estimated to range between $198 and $1,000 per product, or between about $178,000 and $900,000 in total. We estimate that at least 95 percent of the products with labels that will need to be changed other than in conjunction with a planned change are computer generated with no outside design assistance. The internal prepress and graphic design labor costs associated with these changes are estimated to be between $135 and $743 for each product. The material costs for computer generated labels are estimated to be between $100 and $275 for each new label. For these label changes, production labor and material costs are estimated to range between about $638,000 and $2 million.

To be conservative in our cost estimates, we assume that 5 percent of the products with labels that will need to be changed other than in conjunction with a planned change are printed using more costly conventional printing plates, and the manufacturers of these products use external prepress and graphic design consultants. Prepress and graphic design labor costs, internal and external, are estimated to be between $810 and $5,043 for each product, totaling between about $36,000 and $227,000. There is significant variation in the cost of conventionally printed labels depending on the printing method. Printing material costs for these label changes are estimated to range between about $47,000 and $306,000.

Minor costs may be incurred in producing the standardized summaries of efficacy and safety data for currently licensed products within the 4-year implementation period. We estimate that about 1,700 revised summaries will need to be produced as a result of this rule because efficacy and safety studies are frequently provided for multiple products. The estimated cost will be about $83 per summary, or about $141,000 in total.

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 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 112 as follows:

PART 112—PACKAGING AND LABELING

■ 1. The authority citation for part 112 continues to read as follows:

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

■ 2. Section 112.2 is amended as follows:

■ a. In paragraph (a)(5), by adding a new first sentence.

■ b. By adding a new paragraph (a)(9)(v).

The additions read as follows:

§ 112.2 Final container label, carton label, and enclosure.

(a) * * *

(5) An indications statement to read, ''This product has been shown to be effective for the vaccination of healthy (insert name of species) ____ weeks of age or older against ____.'' * * *

* * * * *

(9) * * *

(v) A statement similar to ''For more information regarding efficacy and

safety data, go to *productdata.aphis.usda.gov.*

* * * * *

■ 3. Section 112.5 is amended as follows:

■ a. In the introductory text, by removing the words ''paragraph (c) of this section and under the master label system provided in paragraph (d)'' and adding the words ''paragraph (d) of this section and under the master label system provided in paragraph (e)'' in their place.

■ b. In paragraph (a), by removing the words ''(*http://www.aphis.usda.gov/animal_health/vet_biologics/vb_forms.shtml*)'' and adding the words ''(*productdata.aphis.usda.gov*)'' in their place.

■ c. By redesignating paragraphs (b) through (g) as paragraphs (c) through (h).

■ d. By adding a new paragraph (b).

■ e. In newly redesignated paragraph (d)(1), by removing the citation ''§ 112.5(d)'' and adding the words ''paragraph (e) of this section'' in its place.

■ f. In newly redesignated paragraph (e)(1)(ii), by removing the citation ''§ 112.5(d)(1)(iii)'' and adding the words ''paragraph (e)(1)(iii) of this section'' in its place.

■ g. In newly redesignated paragraph (e)(1)(iii), by removing the citation ''§ 112.5(d)(1)(i)'' and adding the words ''paragraph (e)(1)(i) of this section'' in its place.

■ h. In newly redesignated paragraph (e)(1)(iv), by removing the citation ''§ 112.5(d)(1)(ii)'' and adding the words ''paragraph (e)(1)(ii) of this section'' in its place.

■ i. In newly redesignated paragraph (h), by removing the citation ''§ 112.5(c)'' and adding the words ''paragraph (d) of this section'' in its place.

The addition reads as follows:

§ 112.5 Review and approval of labeling.

* * * * *

(b) A data summary, available on the Internet at *productdata.aphis.usda.gov,* shall be used with each submission of efficacy and safety data in support of a label claim. Manufacturers will submit the efficacy and safety data information with either the efficacy and safety studies or at the time of label submission. This information will be posted at *productdata.aphis.usda.gov* to allow public disclosure of product performance.

* * * * *

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

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–16898 Filed 7–9–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 11 and 101

[Docket No. FDA–2011–F–0172]

RIN 0910–AG57

Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Extension of Compliance Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the compliance date for the final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The final rule appeared in the **Federal Register** of December 1, 2014. We are taking this action in response to requests for an extension and for further clarification of the rule's requirements.

DATES:

Effective date: This final rule is effective December 1, 2015.

Compliance date: Covered establishments must comply with the rule published December 1, 2014 (79 FR 71156) by December 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ashley Rulffes, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2371, email: *ashley.rulffes@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 1, 2014 (79 FR 71156), we published a final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The final rule implements provisions of section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)) and:

- Defines terms, including terms that describe criteria for determining whether an establishment is subject to the rule;
- establishes which foods are subject to the nutrition labeling requirements and which foods are not subject to these requirements;
- requires that calories for standard menu items be declared on menus and menu boards that list such foods for sale;
- requires that calories for standard menu items that are self-service or on display be declared on signs adjacent to such foods;
- requires that written nutrition information for standard menu items be available to consumers who ask to see it;
- requires, on menus and menu boards, a succinct statement concerning suggested daily caloric intake (succinct statement), designed to help the public understand the significance of the calorie declarations;
- requires, on menus and menu boards, a statement regarding the availability of the written nutrition information (statement of availability);
- establishes requirements for determination of nutrient content of standard menu items;
- establishes requirements for substantiation of nutrient content determined for standard menu items, including requirements for records that a covered establishment must make available to FDA within a reasonable period of time upon request; and
- establishes terms and conditions under which restaurants and similar retail food establishments not otherwise subject to the rule could elect to be subject to the requirements by registering with FDA.

In the preamble to the final rule (79 FR 71156 at 71239 through 71241), we stated that the rule would be effective on December 1, 2015, and also provided a compliance date of December 1, 2015, for covered establishments. The final rule (at 21 CFR 101.11(a)) defines ''covered establishment'' as a restaurant or similar retail food establishment that is a part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership, *e.g.,* individual franchises) and offering for sale substantially the same menu items, as well as a restaurant or similar retail food establishment that is voluntarily registered to be covered under 21 CFR 101.11(d).

II. Extending the Compliance Date

Since we published the final rule in the **Federal Register**, we have received numerous requests asking us to further

interpret portions of the final rule or to respond to questions asking whether specific practices would be acceptable for purposes of complying with the rule. We issued a document in the **Federal Register** (80 FR 13225, March 13, 2015) announcing the availability of a ''Small Entity Compliance Guide'' for the rule, and are considering what additional guidance might be helpful.

Since February 2015, we have received four requests asking us to extend the compliance date of the final rule based on concerns that covered establishments do not have adequate time to fully implement the requirements of the rule by the compliance date. These requests were submitted by a large retailer and trade and other associations, and they provide information regarding steps involved in implementation of the requirements. More specifically, the requests describe steps involved in developing software, information systems, and other technologies for providing nutrition information in ways that better correspond to how foods are offered for sale in covered establishments and allow for more efficient and product-specific nutrition labeling. In addition, the requests describe steps involved in training staff, implementing standard operating procedures, and developing and installing updated and consistent menu boards across all locations within a chain. Most requests sought to extend the compliance date by 1 year.

In light of these requests, we have decided to extend the compliance date for the final rule to December 1, 2016. The final rule requirements are intended to ensure that consumers are provided accurate, clear, and consistent nutrition information for foods sold in covered establishments in a direct and accessible manner to enable consumers to make informed and healthful dietary choices. Therefore, allowing adequate time for covered establishments to fully implement the final rule's requirements, as described in the requests, helps accomplish the primary objective of the final rule and is in the public interest.

III. Economic Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). FDA has developed a regulatory impact analysis that presents the benefits and costs of this final rule (Ref. 1). The Agency believes that this final rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the final rule changes the compliance date from December 1, 2015, to December 1, 2016, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $144 million, using the most current (2014) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

IV. Paperwork Reduction Act

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Environmental Impact

We have determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Reference

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.* (FDA has verified the Web site address in this reference section, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. FDA, ''Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Extension of Compliance Date,'' 2015. Available at: *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/.*

Dated: July 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16865 Filed 7–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 591

Venezuela Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing regulations to implement the Venezuela Defense of Human Rights and Civil Society Act of 2014 (Pub. L. 113–278) and Executive Order 13692 of March 8, 2015 (''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela''). OFAC intends to supplement this part 591 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

DATES: *Effective:* July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–6746, Assistant Director for Regulatory Affairs, tel.: 202/622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, OFAC, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On December 18, 2014, President Obama signed the Venezuela Defense of Human Rights and Civil Society Act of 2014 (Pub. L. 113–278) (the ''Act'') into law. The Act required the President to impose targeted sanctions on certain persons that he determines to be responsible for significant acts of violence or serious human rights abuses against antigovernment protesters in Venezuela and to have ordered or otherwise directed the arrest or prosecution of persons in Venezuela primarily because of the person's legitimate exercise of freedom of expression or assembly.

On March 8, 2015, the President issued Executive Order 13692 (80 FR 12747, March 11, 2015) (E.O. 13692), invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the Act, and the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA).

OFAC is issuing the Venezuela Sanctions Regulations, 31 CFR part 591 (the ''Regulations''), to implement the Act and E.O. 13692, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13692. A copy of E.O. 13692 appears in Appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 591 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 591

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign trade, Investments, Loans, Securities, Services, Venezuela.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 591 to 31 CFR chapter V to read as follows:

PART 591—VENEZUELA SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

Subparts F–G—[Reserved]

Subpart H—Procedures

Subpart I—Paperwork Reduction Act

Appendix A to Part 591 Executive Order 13692 of March 8, 2015

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 113–278, 128 Stat. 3011 (50 U.S.C. 1701 note); E.O. 13692, 80 FR 12747, March 11, 2015.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 591.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note to § 591.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and

additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 591.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13692 of March 8, 2015, are also prohibited pursuant to this part.

Note 1 to § 591.201: The names of persons designated pursuant to Executive Order 13692, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[VENEZUELA].'' The SDN List is accessible through the following page on OFAC's Web site: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in Appendix A to this chapter. *See* § 591.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 591.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–VENEZUELA]''.

Note 3 to § 591.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 591.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 591.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 591.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 591.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property and interests in property blocked pursuant to § 591.201.

§ 591.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 591.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 591.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 591.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity

securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 591.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 591.204 Expenses of maintaining blocked property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 591.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 591.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Subpart C—General Definitions

§ 591.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 591.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 591.201 held in the name of a person whose property and interests in property are blocked pursuant to § 591.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note to § 591.301: See § 591.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by persons whose property and interests in property are blocked pursuant to § 591.201.

§ 591.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person listed in the Annex to E.O. 13692 of March 8, 2015, 12:01 a.m. eastern daylight time, March 9, 2015; and

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 591.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 591.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 591.304 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in Executive Order 13692 of March 8, 2015, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 591.305 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 591.306 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's Web site: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's Web site: *www.treasury.gov/ofac.*

Note to § 591.306: *See* § 501.801 of this chapter on licensing procedures.

§ 591.307 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 591.308 Person.

The term *person* means an individual or entity.

§ 591.309 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 591.310 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement,

contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, or filing of, or levy of or under, any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 591.311 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 591.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 591.313 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 591.401 [Reserved]

§ 591.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 591.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 591.201, such property shall no longer be deemed to be property blocked pursuant to § 591.201, unless there exists in the property another interest that is blocked pursuant to § 591.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or other authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 591.201, such property shall be deemed to be property in which such a person has an interest and therefore blocked.

§ 591.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 591.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 591.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 591.201 if effected after the effective date.

§ 591.406 Entities owned by persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 591.201 have an interest in all property and interests in property of an entity in which such blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 591.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 591.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Venezuela sanctions page on OFAC's Web site: *www.treasury.gov/ofac.*

§ 591.502 [Reserved]

§ 591.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 591.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 591.201 has any interest that comes within the possession or control of a U.S. financial institution

must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 591.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 591.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 591.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 591.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be specifically licensed or otherwise authorized pursuant to § 591.507:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, is prohibited unless licensed pursuant to this part.

Note to § 591.506: U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available on OFAC's Web site: *www.treasury.gov/ofac.*

§ 591.507 Payments for legal services from funds originating outside the United States authorized.

(a) Receipts of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 591.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, are authorized from funds originating outside the United States, provided that the funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 591.506(a) do not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 591.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order.

Note to paragraph (a) of § 591.507: This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 591.506(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, any other part of this chapter, or any Executive order has an interest.

(b) *Reports.* (1) U.S. persons who receive payments in connection with legal services authorized pursuant to § 591.506(a) must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Annex, Washington, DC 20220.

Note to § 591.507: U.S. persons who receive payments in connection with legal services authorized pursuant to § 591.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific

authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 591.506(a).

§ 591.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 591.201 or any further Executive orders relating to the national emergency declared in Executive Order 13692 of March 8, 2015, is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subparts F–G—[Reserved]

Subpart H—Procedures

§ 591.801 [Reserved]

§ 591.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13692 of March 8, 2015, and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 591.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 591—Executive Order 13692

Executive Order 13692 of March 8, 2015

Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Venezuela Defense of Human Rights and Civil Society Act of 2014 (Public Law 113–278) (the ''Venezuela Defense of Human Rights Act'') (the ''Act''), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)) (INA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the situation in Venezuela, including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the exacerbating presence of significant public corruption, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order; and

(ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, directly or indirectly, any of the following in or in relation to Venezuela:

(1) actions or policies that undermine democratic processes or institutions;

(2) significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014;

(3) actions that prohibit, limit, or penalize the exercise of freedom of expression or peaceful assembly; or

(4) public corruption by senior officials within the Government of Venezuela;

(B) to be a current or former leader of an entity that has, or whose members have, engaged in any activity described in subsection (a)(ii)(A) of this section or of an entity whose property and interests in property are blocked pursuant to this order;

(C) to be a current or former official of the Government of Venezuela;

(D) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) a person whose property and interests in property are blocked pursuant to this order; or

(2) an activity described in subsection (a)(ii)(A) of this section; or

(E) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in subsection 1(a) of this order would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants or nonimmigrants, of such persons, except where the Secretary of State determines that the person's entry is in the national interest of the United States. This section shall not apply to an alien if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement Regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations.

Sec. 3. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''Government of Venezuela'' means the Government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela, and any person owned or controlled by, or acting for or on behalf of, the Government of Venezuela.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior

notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and section 5 of the Venezuela Defense of Human Rights Act, other than the authorities contained in sections 5(b)(1)(B) and 5(c) of that Act, as may be necessary to carry out the purposes of this order, with the exception of section 2 of this order, and the relevant provisions of section 5 of that Act. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 9. The Secretary of State is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, the INA, and section 5 of the Venezuela Defense of Human Rights Act, including the authorities set forth in sections 5(b)(1)(B), 5(c), and 5(d) of that Act, as may be necessary to carry out section 2 of this order and the relevant provisions of section 5 of that Act. The Secretary of State may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 12. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 13. This order is effective at 12:01 a.m. eastern daylight time on March 9, 2015.

Barack Obama
THE WHITE HOUSE,
March 8, 2015

Annex

1. Antonio José Benavides Torres [Commander of the Central Integral Strategic Defense Region of the National Armed Forces, former Director of Operations for the National Guard; born June 13, 1961]
2. Gustavo Enrique González López [Director General of the National Intelligence Service and President of the Strategic Center of Security and Protection of the Homeland; born November 2, 1960]
3. Justo José Noguera Pietri [President of the Venezuelan Corporation of Guayana, former General Commander of the National Guard; born March 15, 1961]
4. Katherine Nayarith Haringhton Padron [National Level Prosecutor of the 20th District Office of the Public Ministry; born December 5, 1971]
5. Manuel Eduardo Pérez Urdaneta [Director of the National Police; born May 26, 1962]
6. Manuel Gregorio Bernal Martínez [Chief of the 31st Armored Brigade of Caracas, former Director General of the National Intelligence Service; born July 12, 1965]
7. Miguel Alcides Vivas Landino [Inspector General of the National Armed Forces, former Commander of the Andes Integral Strategic Defense Region of the National Armed Forces; born July 8, 1961]

Dated: July 2, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

Approved:

Dated: July 2, 2015.

Adam J. Szubin,

Acting Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2015–16782 Filed 7–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0952]

RIN 1625–AA09

Drawbridge Operation Regulation; Victoria Barge Canal, Bloomington, TX

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is modifying the method of operation for the Victoria Barge Canal Railroad Bridge across the Victoria Barge Canal, mile 29.4, at Bloomington, Victoria County, Texas. The bridge owner, the Victoria County Navigation District, in conjunction with the Union Pacific Railroad (UPRR), the operator of the bridge, is operating the bridge remotely under a temporary deviation. This interim rule codifies the change in method of operation while allowing for comments regarding the remote operations. This interim rule increases the efficiency of operations allowing for the safe navigation of vessels through the bridge while recognizing the bridge's importance to the Port of Victoria that it serves.

DATES: This interim rule is effective July 10, 2015.

Comments and related material must reach the Coast Guard on or before September 8, 2015.

ADDRESSES: You may submit comments, identified by docket number, using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Geri Robinson; Bridge Administration Branch, Eighth Coast Guard District; telephone 504–671–2128, email *geri.a.robinson@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
USCG United States Coast Guard
NEPA National Environmental Policy Act
NPRM Notice of Proposed Rule Making
§ Section Symbol
U.S.C. United States Code
JOC Joint Outfall Canal

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2014–0952), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0952) in the ''SEARCH'' box and click ''SEARCH.'' Then click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0952) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

On December 30, 2014, we published a temporary deviation from regulations; request for comments (TD) entitled, ''Drawbridge Operation Regulation; Victoria Barge Canal, Bloomington, Texas'' in the **Federal Register** (79 FR 78304). We received no comments on the temporary deviation. No public meeting was requested, and none was held.

The Coast Guard is issuing this interim final rule without prior notice pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C.) 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. This bridge has been operating on a modified schedule under a temporary deviation, and given that we have received no comments, we believe that the schedule has been working. Reverting to the old schedule in order to accept comment would present logistical difficulties for the operator and users.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. Under the Temporary Deviation published on December 30, 2014, this bridge has been remotely operated, and mariners will benefit from there not being any changes to the ongoing method of operation of the bridge that has been in place for the past six months.

C. Basis and Purpose

The Coast Guard received a request from the bridge owner, the Victoria County Navigation District, in conjunction with the bridge operator, the Union Pacific Railroad (UPRR) to remotely operate the vertical lift span bridge across the Victoria Barge Canal, at Mile 29.4 near Bloomington, Texas. The bridge owner and operator requested to operate the bridge remotely from its dispatching center in Spring, Texas and remove the requirement that a bridge tender be present on site at all times. A temporary deviation was issued permitting these practices. Under the procedures now in use, the bridge will continue to open on signal for the passage of vessels.

This final rule will allow the bridge operator to increase efficiency of bridge operations and vessel transit by remotely operating the bridge. This method provides for the opening signal to be received by the railroad dispatcher and allows the dispatcher to open the bridge from a remote location. Vessel traffic on the waterway will be monitored by the railroad dispatcher by use of an Automatic Identification System (AIS). The AIS System allows the Port of Victoria and the UPRR dispatcher to determine where vessels are located along the waterway in the vicinity of the bridge. We also note that the Victoria County Navigation District has a carriage requirement that all vessels desiring to transit the Victoria Barge Canal to the Port of Victoria be equipped with an operating AIS transponder.

The Victoria Barge Canal Railroad Bridge is a vertical lift span bridge across the Victoria Barge Canal, at Mile 29.4 near Bloomington, Texas. The vertical lift bridge has a vertical clearance of 22 feet above high water in the closed-to-navigation position and 50 feet above high water in the open-to-navigation position. Traffic on this waterway is primarily commercial and consists of vessels and tows that provide services to the Port of Victoria.

D. Discussion of Comments, Changes and the Interim Rule

No comments were received during the comment period of the temporary deviation. However, a contractor raised an issue regarding the requirements of dispatchers to contact the vessels when a vessel entered the two-mile bridge zone. In response to this concern, the Coast Guard decided that further comments would be accepted under an Interim Rule.

The bridge owner, the Victoria County Navigation District, in conjunction with

the Union Pacific Railroad (UPRR), the operator of the bridge, requested permission to remotely operate the bridge. A test deviation was performed to test the proposed remote operating system as the method for opening the bridge under the existing operating schedule and to determine whether a permanent change to remote operations should be approved.

Prior to the granting of the temporary deviation, the bridge opened on signal for the passage of vessels in accordance with 33 CFR 117.5. When a request signal to open the bridge is received and before opening the bridge for vessel traffic, the tender was required by his company to contact the railroad dispatcher so that railroad traffic could be stopped. Under the existing deviation, the bridge continues to open on signal for the passage of vessels, but the method of opening the bridge is accomplished through remote operation by the railroad dispatcher.

The bridge operator, UPRR, determined that by remotely operating the bridge, vessel transit through the bridge is more efficient. This remote method of operation provides for the signal to open to be received directly by the railroad dispatcher and will allow the railroad dispatcher to then open the bridge from the remote location.

The Interim Rule allows for mariners to continue their transit while the bridge is remotely operated and to comment as to whether the proposed method of operation is sufficient to insure the safety of vessels transiting the area.

This interim rule allows the bridge to be unmanned and operated remotely at all times. To facilitate the continued smooth operation of the bridge, mariners should exchange opening requests using the following method:

1. When a vessel with AIS equipment onboard approaches the two-mile post, the dispatcher will receive a prompt to open the bridge, if required, because a vessel is approaching. The vessel may continue to transit the waterway, but must tune their radiotelephone to VHF–FM channel 13 and receive passing instructions from the railroad dispatcher. The dispatcher must contact the vessel promptly to provide passing instructions to ensure the continued safe transit of the vessel. Operators of vessels without AIS equipment or operators of vessels with AIS who prefer to contact the railroad dispatcher via telephone may call the railroad dispatcher at 800–262–4691 to receive instructions and arrange passing.

2. When any vessel approaches the one mile post, the railroad dispatcher should have either cleared the vessel through the bridge or given an indication that a train is in the block and the vessel will be cleared as soon as practicable. If the vessel operator has not yet communicated with the railroad dispatcher, the vessel operator should immediately call the railroad dispatcher via telephone at 800–262–4691.

3. If any vessel reaches the one-half mile post and has not communicated with the railroad dispatcher nor been cleared to proceed, the vessel should stop and contact either the railroad dispatcher at 800–262–4691 or the Port of Victoria emergency contact at 361–570–8855.

Traffic on this waterway is primarily commercial and consists of vessels and tows that provide services to the Port of Victoria.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule allows all vessels utilizing this stretch of the waterway to continue to transit the waterway unencumbered while provide for the bridge owner to operate the bridge from a remote location. Vessel operators should not see any changes in the efficiency of vessel movements as the bridge will still be required to open on signal for the passage of vessels.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the property owners, vessel operators and waterway users who wish to transit on Victoria Barge Canal daily. This rule will not have a significant impact on a substantial number of small entities for the following reasons: a test deviation was conducted and no opposition in response to the test was received by the Coast Guard Office of Bridge Administration. Further, through pre-coordination and consultation with property owners, vessel operators and waterway users, this operating schedule will accommodate all waterway users with minimal impact to their transits on the waterway.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 117.991 to read as follows:

§ 117.991 Victoria Barge Canal

The draw of the Victoria Barge Canal Railroad Bridge across Victoria Barge Canal, mile 29.4, at the Bloomington, Victoria County, Texas, shall operate as follows:

(a) The draw shall be unmanned and when a vessel with AIS equipment onboard approaches the two-mile post, the dispatcher will receive a prompt to open the bridge, if required, because a vessel is approaching. The vessel may continue to transit the waterway, but must tune their radiotelephone to VHF–FM channel 13 and receive passing instructions from the railroad dispatcher. The dispatcher must contact the vessel promptly to provide passing instruction to insure the continued safe transit of the vessel. Vessels without AIS equipment or vessels with AIS who would prefer to call via telephone, may call the railroad dispatcher at 800–262–4691 to arrange passing instructions.

(b) When any vessel approaches the one-mile post, the railroad dispatcher should have either cleared the vessel through the bridge or given an indication that a train is in the block and the vessel will be cleared as soon as practicable. If the vessel has not yet spoken with the railroad dispatcher, the vessel should immediately call the railroad dispatcher via telephone at 800–262–4691.

(c) If any vessel reaches the one-half mile post and has not communicated with the railroad dispatcher nor been cleared to proceed, the vessel should stop and contact either the railroad dispatcher at 800–262–4691 or the Port of Victoria emergency contact at 361–570–8855.

Dated: June 17, 2015.

David R. Callahan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2015–16984 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0300]

Safety Zones; Annual Fireworks Displays Within the Sector Columbia River Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Annual Fireworks Display Safety Zones in the Captain of the Port Columbia River Zone. Each safety zone will be enforced 1 hour before and 1 hour after each scheduled fireworks display described in that rule. The Coast Guard will not enforce zones which are intended for fireworks displays that are not planned to occur this year. This action is necessary to protect watercraft and their occupants from the inherent safety hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter or remain in the safety zone without permission from the Sector Columbia River Captain of the Port.

DATES: The regulations in 33 CFR 165.1315 will be enforced 1 hour before

and 1 hour each event listed in the table in 33 CFR 165.1315(a).

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Mr. Ken Lawrenson, Waterways Management Division, MSU Portland, Coast Guard; telephone 503–240–9319, email *MSUPDXWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulations for the Annual Fireworks displays within the Captain of the Port Columbia River Zone in the locations and during the dates and times listed in the table below, reproduced from 33 CFR 165.1315(a):

Event name (typically)	Event location	Date of event	Approximate latitude	Approximate longitude
Tri-City Chamber of Commerce Fireworks Display, Columbia Park.	Kennewick, WA	July 4th 2015, 10:00 p.m. to 10:30 p.m.	46°13′37″ N.	119°08′47″ W.
Astoria-Warrenton 4th of July Fireworks	Astoria, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	46°11′44″ N.	123°48′25″ W.
Waterfront Blues Festival Fireworks	Portland, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°30′42″ N.	122°40′14″ W.
Oregon Symphony Concert Fireworks Display	Portland, OR	September 3rd 2015, 9:30 p.m. to 10:00 p.m.	45°30′42″ N.	122°40′14″ W.
Florence Independence Day Celebration	Florence, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	43°58′09″ N.	124°05′50″ W.
Oaks Park Association	Portland, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°28′22″ N.	122°39′59″ W.
City of Rainier/Rainier Days	Rainier, OR	July 11th 2015, 10:00 p.m. to 10:30 p.m.	46°05′46″ N.	122°56′18″ W.
Ilwaco July 4th Committee Fireworks/Independence Day at the Port.	Ilwaco, OR	July 3rd 2015, 10:00 p.m. to 10:30 p.m.	46°18′17″ N.	124°02′00″ W.
Splash Aberdeen Waterfront Festival	Aberdeen, WA	July 4th 2015, 10:00 p.m. to 10:30 p.m.	46°58′40″ N.	123°47′45″ W.
City of Coos Bay July 4th Celebration/Fireworks Over the Bay.	Coos Bay, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	43°22′06″ N.	124°12″24″ W.
Arlington 4th of July	Arlington, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°43′23″ N.	120°12′11 W.
Port of Cascade Locks 4th of July Fireworks Display.	Cascade Locks, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°40′15″ N.	121°53′43″ W.
Astoria Regatta	Astoria, OR	August 8th 2015, 10:00 p.m. to 10:30 p.m.	46°11′43″ N.	123°489′25″ W.
Washougal 4th of July	Washougal, WA	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°34′32″ N.	122°22′53″ W.
City of St. Helens 4th of July Fireworks Display	St. Helens, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°51′54″ N.	122°47′26″ W.
Waverly Country Club 4th of July Fireworks Display.	Milwaukie, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	45°27′03″ N.	122°39′18″ W.
Hood River 4th of July	Hood River, OR	July 4th 2015, 8:30 p.m. to 11:00 p.m.	45°42′58″ N.	121°30′32″ W.
Winchester Bay 4th of July Fireworks Display	Winchester Bay, OR	July 4th 2015, 10:00 p.m. to 10:30 p.m.	43°40′56″ N.	124°11′13″ W.
Brookings, OR July 4th Fireworks	Brookings, OR	July 4th 2015, 10:00 p.m. to 10:45 p.m.	42°02′39″ N.	124°16′14″ W.
Yachats 4th of July	Yachats, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	44°18′38″ N.	124°06′27″ W.
Lincoln City 4th of July	Lincoln City, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	44°55′28″ N.	124°01′31″ W.
July 4th Party at the Port of Gold Beach	Gold Beach, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	42°25′30″ N.	124°25′03″ W.
Gardiner 4th of July	Gardiner, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	43°43′55″ N.	124°06′48″ W.
Huntington 4th of July	Huntington, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	44°18′02″ N.	117°13′33″ W.
Toledo Summer Festival	Toledo, OR	July 25th, 2015, 10:00 p.m. to 10:30 p.m.	44°37′08″ N.	123°56′24″ W.
Port Orford 4th of July	Port Orford, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	42°44′31″ N.	124°29′30″ W.
The Dalles Area Chamber of Commerce Fourth of July.	The Dalles, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	45°36′18″ N.	121°10′23″ W.
Roseburg Hometown 4th of July	Roseburg, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	43°12′58″ N.	123°22′10″ W.
Newport 4th of July	Newport, OR	July 4th, 2015, 10:00 p.m. to 10:30 p.m.	44°37′40″ N.	124°02′45″ W.
The Mill Casino Independence Day	North Bend, OR	July 3rd 2015, 10:00 p.m. to 10:30 p.m.	43°23′42″ N.	124°12′55″ W.
Waldport 4th of July	Waldport, OR	July 3rd, 2015, 10:00 p.m. to July 4th, 2015 1:00 a.m.	44°25′31″ N.	124°04′44″ W.

Event name (typically)	Event location	Date of event	Approximate latitude	Approximate longitude
Westport 4th of July	Westport, WA	July 4th 2015, 10:00 p.m. to 10:30 p.m.	46°54′17″ N.	124°05′59″ W.
The 4th of July at Pekin Ferry	Ridgefield, WA	June 27, 2015, 10:00 p.m. to 11:59 p.m.	45°52′07″ N.	122°43′53″ W.
Leukemia and Lymphoma Light the Night Fireworks Display.	Portland, OR	October 24th, 2015, 7:45 p.m. to 8:15 p.m.	45°31′14″ N.	122°40′06″ W.

Under the provisions of 33 CFR 165.1315 and 33 CFR part 165, subpart C, no person or vessel may enter or remain in the safety zones without permission of the Captain of the Port Columbia River or his designated representative. See 33 CFR 165.1315 and 33 CFR part 165, subpart C for additional information and prohibitions. Persons or vessels wishing to enter the safety zones may request permission to do so from the Captain of the Port Columbia River or his designated representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority of 33 CFR 165.1315 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via the Local Notice to Mariners. If the COTP determines that a regulated area need not be enforced for the full duration stated in this notice of enforcement, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 11, 2015.

D.J. Travers,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2015–16972 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–1036]

Safety Zones; Recurring Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce two safety zones for fireworks displays in the Sector Long Island Sound area of responsibility on the dates and times listed in the table below. This action is necessary to provide for the safety of life on navigable waterways during the events. During the enforcement periods, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulations in 33 CFR 165.151 will be enforced during the dates and times as listed in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Petty Officer Ian Fallon, Waterways Management Division, U.S. Coast Guard Sector Long Island Sound; telephone 203–468–4565, email *Ian.M.Fallon@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.151 on the specified dates and times as indicated in the following Table.

TABLE 1 TO § 165.151

7.8 Westport Police Athletic League Fireworks	• Date: July 3, 2015. • Rain Date: July 6, 2015. • Time: 8:30 p.m. to 10:00 p.m. • Location: Waters off Compo Beach, Westport, CT in approximate position, 41°06′15″ N, 073°20′57″ W (NAD 83).
7.29 Mashantucket Pequot Fireworks	• Date: July 11, 2015. • Rain Date: July 12, 2015. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Thames River New London, CT in approximate positions Barge 1, 41°21′03.03″ N, 072°5′24.5″ W Barge 2, 41°20′51.75″ N, 072°5′18.90″ W (NAD 83).

Under the provisions of 33 CFR 165.151, the fireworks displays listed above are established as safety zones. During the enforcement periods, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within the safety zones unless they receive permission from the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR part 165 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners or marine information broadcasts. If the COTP determines that the safety zones need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 24, 2015.

H.L. Morrison,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Long Island Sound.

[FR Doc. 2015–16985 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0267]

RIN 1625–AA00

Safety Zone—Oil Exploration Staging Area in Goodhope Bay; Kotzebue Sound, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the Port of Goodhope Bay, Alaska, and adjacent U.S. territorial sea on July 1 and October 15, 2015. The temporary safety zones will encompass the navigable waters within a 25-yard radius of moored or anchored offshore exploration or support vessels, and the navigable waters within a 100-yard radius of underway offshore exploration or support vessels. The purpose of the safety zones are to protect persons and vessels during an unusually high volume of vessel traffic in the Port of Goodhope Bay and the adjacent territorial sea due to additional vessel traffic associated with exploratory drilling operations in the Chukchi and Beaufort seas during the summer of 2015.

DATES: This rule is effective without actual notice from July 10, 2015 until October 15, 2015. For the purposes of enforcement, actual notice will be used from July 1, 2015, until July 10, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0267]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Eugene Chung, Sector Anchorage Prevention, Coast Guard; telephone 907–428–4189, Email *Eugene.Chung@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

On May 1, 2015, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones: Oil Exploration Staging Area in Goodhope Bay, Kotzebue Sound, AK in the **Federal Register**. We received one letter commenting on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

Based on information provided by private entities affiliated with oil exploration activities, the Coast Guard anticipates approximately eleven vessels associated with exploratory drilling operations will call upon the Port of Goodhope Bay, Alaska, en route to proposed drilling sites in the Chukchi and Beaufort. The addition of these vessels in conjunction with the high volume of traffic operating within the Port of Goodhope Bay creates a safety risk for all vessels operating therein. Such risks include reduced ability to navigate safely within the congested waterways of the port during the subject time period.

The vessels and equipment anticipated to be staged within these areas, due to their size and technical complexity, pose a safety risk to vessels that attempt to navigate too closely to them. Limited rescue capabilities are available in the area. In evaluating whether a safety zone would be appropriate, the Coast Guard explored relevant safety factors and considered several criteria, including, but not limited to: (1) The amount of commercial activity in and around the Port of Goodhope Bay; (2) safety concerns for personnel aboard the vessels; (3) sensitivity of the environment in the region and potential adverse affects caused by a grounding, allision, or collision; (4) the types and volume of vessels navigating in the vicinity of the Port of Goodhope Bay; and (5) the need to allow for lawful demonstrations without endangering the safe operations of support vessels. Vessels transiting in the vicinity of the proposed safety zones could consist of large commercial shipping vessels, fishing vessels, tugs and tows, and recreational vessels. Any group or individual intending to conduct lawful demonstrations in the vicinity of offshore exploration support vessels must do so outside of the temporary safety zones. Results from a thorough and comprehensive examination of the five criteria identified above, in conjunction with International Maritime Organization guidelines and existing regulations, warrant establishment of safety zones to ensure safe and efficient vessel transits within the Port of Goodhope Bay and the adjacent territorial sea. These safety zones will facilitate safe navigation and protect vessels from hazards caused by increased volume of vessel traffic, including hazards that may be intentionally created, in the Port of Goodhope Bay.

C. Discussion of Comments and the Final Rule

For the reasons described above, the Coast Guard is finalizing a temporary safety zone due to safety concerns for personnel aboard the support vessels, mariners operating other vessels in the vicinity of Goodhope Bay, and to protect the environment. The regulation will significantly reduce the threat of collisions, allisions, or other incidents which could endanger the safety of all vessels operating on the navigable waters of the Port of Goodhope Bay and the adjacent territorial sea. The Coast Guard is establishing temporary safety zones that will prohibit entry into the zones unless specifically authorized by the Captain of the Port, Western Alaska, or his designated on-scene representative.

The temporary safety zones will encompass the waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit. They are in effect from July 1 through October 15, in order to encompass the expected period of operations.

D. Regulatory Analyses

We developed this temporary final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order

13563. The Office of Management and Budget has not reviewed it under those Orders. The safety zone will have negligible economic impact, as there will be ample room for navigation around it.

2. Impact on Small Entities

This rule is not a significant regulatory action due to the minimal impact this will have on standard vessel operations within the Port of Goodhope Bay because of the limited area affected and the limited duration of the rule. The safety zones are also designed to allow vessels transiting through the area to safely travel around the safety zones without incurring additional costs.

The Regulatory Flexibility Act of 1980 (RFA), (5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule could affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through or anchor in within a portion of the Port of Dutch Harbor or adjacent waters, from June 15, 2015 to July 15, 2015.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: These safety zone restrictions are only effective from July 1, 2015 to October 15, 2015, and are limited only to waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit. The Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF before the safety zone is enforced.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Specifically, the rule involves establishing a safety zone, which is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary final rule. An environmental analysis checklist and a categorical exclusion determination are available in the

NPRM docket where indicated under Supporting Documents.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T17–0267 to read as follows:

§ 165.T17–0267 Safety Zone; Port of Goodhope Bay; Goodhope Bay, Alaska.

(a) *Location.* The following areas are safety zones:

(1) All navigable waters within a 25-yard radius of a moored or anchored offshore exploration or support vessel, or within a 100-yard radius of any underway offshore exploration or support vessel, located within the Port of Goodhope Bay, to the limits of the U.S. territorial sea.

(2) [Reserved]

(b) *Effective date.* The temporary safety zones become effective at 12:01 a.m., July 1, 2015, and terminate on 11:59 p.m., October 15, 2015, unless sooner terminated by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to all vessels operating within the area described in paragraph (a).

(1) If a non-exploration or support vessel is moored or anchored and an offshore exploration or support vessel transits near them such that it places the moored or anchored vessel within the 100-yard safety zone described in paragraph (a) of this section, the moored or anchored vessel must remain stationary until the offshore exploration or support vessel maneuvers to a distance exceeding the 100-yard safety zone.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port (COTP) or designated on-scene representative, consisting of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed by the COTP's designated on-scene representative.

(3) Entry into the safety zone is prohibited unless authorized by the COTP or his designated on-scene representative. Any persons desiring to enter the safety zone must contact the designated on-scene representative on VHF channel 16 (156.800 MHz) and receive permission prior to entering.

(4) If permission is granted to transit within the safety zone, all persons and vessels must comply with the instructions of the designated on-scene representative.

(5) The COTP, Western Alaska, will notify the maritime and general public by marine information broadcast during the period of time that the safety zones are in force by providing notice in accordance with 33 CFR 165.7.

(d) *Penalties.* Persons and vessels violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: June 3, 2015.

S.D. Montoya,

Commander, U.S. Coast Guard, Acting Captain of the Port, Western Alaska.

[FR Doc. 2015–16740 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0246]

RIN 1625–AA00

Safety Zone—Oil Exploration Staging Area in Dutch Harbor, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the Port of Dutch Harbor, Broad Bay or adjacent navigable waters in the Dutch Harbor area on June 15, 2015. The temporary safety zones will encompass the navigable waters within a 25-yard radius of moored or anchored offshore exploration or support vessels, and the navigable waters within a 100-yard radius of underway offshore exploration or support vessels. The purpose of the safety zones is to protect persons and vessels during an unusually high volume of vessel traffic in the Port of Dutch Harbor, and the adjacent territorial sea due to additional vessel traffic associated with exploratory drilling operations in the Chukchi and Beaufort seas during the summer of 2015.

DATES: This rule is effective without actual notice from July 10, 2015 until July 15, 2015. For the purposes of enforcement, actual notice will be used from June 15, 2015, until July 10, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0246]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Eugene Chung, Sector Anchorage Prevention, Coast Guard; telephone 907–428–4189, Email *Eugene.Chung@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

On May 1, 2015, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones: Oil Exploration Staging Area in Dutch Harbor, AK in the **Federal Register** (80 FR 24866). We received one comment on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

Based on the expectation of increased maritime traffic primarily due to the anticipated arrival of approximately twenty eight (28) vessels affiliated with planned offshore drilling operations in the Chukchi and Beaufort Seas, temporary safety zones needed to ensure the safe transit of vessels within the navigable waters of the Port of Dutch Harbor and adjacent waters extending seaward to the limits of the territorial sea. The Coast Guard believes temporary safety zones are needed due to safety concerns for personnel aboard the support vessels, mariners operating

other vessels in the vicinity of Dutch Harbor, and to protect the environment. The vessels and equipment anticipated to be staged within these safety zones, due to their size and technical complexity, pose a safety risk to vessels that attempt to navigate too closely to them. Limited rescue capabilities are available in the area. In an effort to mitigate the safety risks and any resulting environmental damage, the Coast Guard is establishing temporary safety zones within the Port of Dutch Harbor and the adjacent territorial sea.

In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria, including, but not limited to: (1) The amount of commercial activity in and around the Port of Dutch Harbor; (2) safety concerns for personnel aboard the vessels; (3) sensitivity of the environment in the region and potential adverse affects caused by a grounding, allision, or collision; (4) the types and volume of vessels navigating in the vicinity of the Port of Dutch Harbor; and (5) the need to allow for lawful demonstrations without endangering the safe operations of support vessels. Vessels transiting in the vicinity of the safety zones could consist of large commercial shipping vessels, fishing vessels, tugs and tows, and recreational vessels. Any group or individual intending to conduct lawful demonstrations in the vicinity of offshore exploration support vessels must do so outside of the temporary safety zones.

Results from a thorough and comprehensive examination of the five criteria identified above, in conjunction with International Maritime Organization guidelines and existing regulations, warrant establishment of the temporary safety zones. A safety zone would significantly reduce the threat of collisions, allisions, or other incidents which could endanger the safety of all vessels operating on the navigable waters of the Port of Dutch Harbor and the adjacent territorial sea.

C. Discussion of the Temporary Final Rule

For the reasons described above, the Coast Guard is establishing temporary safety zones that would surround the designated vessels while at anchor, moored or underway on the navigable waters of the Port of Dutch Harbor and the adjacent territorial sea in order to mitigate the potential safety risks associated with the increased vessel traffic. The temporary safety zones will encompass the waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit.

The Coast Guard received one comment on the NPRM. The commenter suggested that the end date, originally proposed as July 1, 2015, be extended to July 15, 2015. The commenter noted that several of the assets that will be staged in Dutch Harbor are not scheduled to depart until early July, 2015. Based on this suggestion, the Coast Guard is adjusting the end date until July 15, 2015.

Enforcing temporary safety zones for each offshore exploration or support vessel while they are on the navigable waters in the Port of Dutch Harbor or the adjacent territorial sea will help ensure the safety of all vessels, including the diverse commercial fleets of Dutch Harbor.

D. Regulatory Analyses

We developed this temporary final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The safety zone will have negligible economic impact, as there will be ample room for navigation around it.

2. Impact on Small Entities

This rule is not a significant regulatory action due to the minimal impact this will have on standard vessel operations within the port of Dutch Harbor because of the limited area affected and the limited duration of the rule. The safety zones are also designed to allow vessels transiting through the area to safely travel around the safety zones without incurring additional costs.

The Regulatory Flexibility Act of 1980 (RFA), (5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule could affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through or anchor in within a portion of the Port of Dutch Harbor or adjacent waters, from June 15, 2015 to July 15, 2015.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: These safety zone restrictions are only effective from June 15, 2015 to July 15, 2015, and are limited only to waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit. The Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF before the safety zone is enforced.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Specifically, the rule involves establishing a safety zone, which is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary final rule. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under Supporting Documents.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T17–0246 to read as follows:

§ 165.T17–0246 Safety Zone; Port of Dutch Harbor; Dutch Harbor, Alaska

(a) *Location.* The following areas are safety zones:

(1) All navigable waters within a 25-yard radius of a moored or anchored offshore exploration or support vessel, or within a 100-yard radius of any underway offshore exploration or support vessel, located within the Port of Dutch Harbor, Broad Bay or adjacent navigable waters encompassed within the area from Cape Cheerful at 54–12.000 N 166–38.000 W north to the limits of the U.S. territorial sea, and from Princess Head at 53–59.000 N 166–25.900 W to the limits of the U.S. territorial sea.

(2) [Reserved]

(b) *Effective date.* The temporary safety zones become effective at 12:01 a.m., June 15, 2015, and terminate on 11:59 p.m., July 15, 2015, unless sooner terminated by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to all vessels operating within the area described in paragraph (a) of this section.

(1) If a non-exploration or support vessel is moored or anchored and an offshore exploration or support vessel transits near them such that it places the moored or anchored vessel within the 100-yard safety zone described in paragraph (a) of this section, the moored or anchored vessel must remain stationary until the offshore exploration or support vessel maneuvers to a distance exceeding the 100-yard safety zone.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port (COTP) or designated on-scene representative, consisting of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed by the COTP's designated on-scene representative.

(3) Entry into the safety zone is prohibited unless authorized by the COTP or his designated on-scene representative. Any persons desiring to enter the safety zone must contact the designated on-scene representative on VHF channel 16 (156.800 MHz) and receive permission prior to entering.

(4) If permission is granted to transit within the safety zone, all persons and vessels must comply with the instructions of the designated on-scene representative.

(5) The COTP, Western Alaska, will notify the maritime and general public by marine information broadcast during the period of time that the safety zones are in force by providing notice in accordance with 33 CFR § 165.7.

(d) *Penalties.* Persons and vessels violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: June 3, 2015.

S.D. Montoya,

Commander, U.S. Coast Guard, Acting Captain of the Port, Western Alaska.

[FR Doc. 2015–16700 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0507]

RIN 1625–AA00

Safety Zone; Oswego Harborfest Jet Ski Show; Oswego Harbor, Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Oswego Harbor, Oswego, NY. This safety zone is intended to restrict vessels from a portion of Oswego Harbor during the Oswego Harborfest Jet Ski Show. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a jet ski show.

DATES: This rule will be effective from 12:45 p.m. on July 25, 2015 until 7:15 p.m. on July 26, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0507]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LTJG Amanda Garcia, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display. Therefore, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register.**

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

Between 12:45 p.m. and 7:15 p.m. on July 25, 2015 and between 12:45 p.m. and 7:15 p.m. on July 26, 2015, a jet ski show will be taking place on Oswego Harbor in Oswego, NY. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo has determined a jet ski show presents significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use by some spectators, present a significant risk of serious injuries or fatalities.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Oswego Harborfest Jet Ski Show. This zone will be effective and enforced intermittently from 12:45 p.m. until 7:15 p.m. on July 25, 2015 and from 12:45 p.m. until 7:15 p.m. on July 26, 2015. This zone will encompass all waters of Oswego Harbor; Oswego, NY starting at position 43°27′49.88″ N. and 076°31′15.41″ W. then Northwest to 43°27′51.72″ N. and 076°31′18.13 then Southwest to 43°27′44.26″ N. and 076°31′39.18″ W. then South to 43°27′42.68″ N. and 076°31′36.91″ W. then returning the point of origin.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the

safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Oswego Harbor on July 25 and 26, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this safety zone would be subject to enforcement for a few hours a day over the course of two days and the safety zone will allow vessels to move freely around the safety zone in Oswego Harbor. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0507 to read as follows:

§ 165.T09–0507 Safety Zone; Oswego Harborfest Jet Ski Show; Oswego Harbor, Oswego, NY.

(a) *Location.* This zone will encompass all waters of Oswego Harbor; Oswego, NY starting at position 43°27′49.88″ N. and 076°31′15.41″ W. then Northwest to 43°27′51.72″ N. and 076°31′18.13 then Southwest to 43°27′44.26″ N. and 076°31′39.18″ W. then South to 43°27′42.68″ N. and 076°31′36.91″ W. then returning the point of origin.

(b) *Enforcement period.* This regulation will be enforced intermittently on July 25, 2015 from 12:45 p.m. until 7:15 p.m. and on July 26, 2015 from 12:45 p.m. until 7:15 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by theCaptain of the Port Buffalo, or his on-scene representative.

Dated: June 15, 2015.

B. W. Roche,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2015–16807 Filed 7–9–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0175; FRL–9930–23-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment of the 2006 24-Hour Fine Particulate Standard for the Liberty-Clairton Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a determination of attainment regarding the Liberty-Clairton, Pennsylvania 2006 24-hour fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter ''Liberty-Clairton Area'' or ''the Area''). EPA is determining that the Liberty-Clairton Area has attained the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS), based upon quality-assured, quality-controlled and certified ambient air monitoring data for the calendar years 2012–2014. EPA's final ''clean data determination'' will suspend the requirements to submit for the Liberty-Clairton Area an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), and contingency measures related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, for so long as the Area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. This final determination will not constitute a redesignation to attainment. This final action is being taken under the Clean Air Act (CAA).

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

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2015–0175. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814–2038, or by email at *velez-rosa.emlyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 2009, EPA published designations for the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688), which became effective on December 14, 2009. In that action, EPA designated the Liberty-Clairton Area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The Liberty-Clairton Area is comprised of the following portion of Allegheny County: The boroughs of Lincoln, Glassport, Liberty, and Port Vue and the City of Clairton. *See* 40 CFR 81.339 (Pennsylvania). The Liberty-Clairton Area is surrounded by, but separate and distinct from, the Pittsburgh-Beaver Valley $PM_{2.5}$ nonattainment area.

A nonattainment designation under the CAA triggers additional planning requirements for states to show attainment of the NAAQS in the nonattainment areas by a statutory attainment date, as specified in the CAA. Since 2005, EPA had implemented the 1997 and 2006 $PM_{2.5}$ NAAQS based on the general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1). On January 4, 2013, in *Natural Resources Defense Council* v. *EPA (NRDC* v. *EPA*), the D.C. Circuit determined that EPA should be implementing its $PM_{2.5}$ pollution standard under additional CAA requirements than those EPA had been following in subpart 1 and remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (1997 $PM_{2.5}$ Implementation Rule) (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (2008 NSR $PM_{2.5}$ Rule).[1] 706 F.3d 428 (D.C. Cir. 2013). The D.C. Circuit found that the EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS solely pursuant to subpart 1, without consideration of the particulate matter specific provisions of subpart 4 of Part D of Title I of the CAA (subpart 4).

On April 25, 2014, EPA finalized a rule identifying the classification of all $PM_{2.5}$ areas currently designated

[1] EPA's 2008 NSR $PM_{2.5}$ Rule relates to requirements for the NSR permitting program required by parts C and D of title I of the CAA. The details and provisions of the 2008 NSR $PM_{2.5}$ Rule are not relevant to this proposed rulemaking.

nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS as ''Moderate,'' consistent with subpart 4 of the CAA. *See* 79 FR 31566 (June 2, 2014). Consequently, the Liberty-Clairton Area was classified as Moderate for the 2006 24-hour $PM_{2.5}$ NAAQS.

Under EPA's longstanding Clean Data Policy interpretation, a determination that a nonattainment area has attained the NAAQS suspends the state's obligation to submit an attainment demonstration, RFP, RACM, and contingency measures as required by the CAA for so long as the area continues to attain the standard. Since the purpose of these provisions is to help reach attainment, a goal which has already been achieved, EPA interprets that these requirements should no longer be applicable. Although the D.C. Circuit remanded the 1997 $PM_{2.5}$ Implementation Rule to EPA, the DC Circuit's decision in *NRDC* v. *EPA* related to EPA's use of subpart 1 for CAA Part D requirements instead of subpart 1 and subpart 4, and the decision did not cast doubt on EPA's interpretation of certain statutory provisions underlying the Clean Data Policy nor cast any doubt on EPA's Clean Data Policy interpretation in the 1997 $PM_{2.5}$ Implementation Rule. *See NRDC* v. *EPA,* 706 F.3d 428.

On April 23, 2015 (78 FR 22666), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania proposing to determine that the Liberty-Clairton Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS. As part of the NPR, EPA addressed the effect of a final determination of attainment under the Clean Data Policy for the Liberty-Clairton Area, as a Moderate nonattainment area under subpart 4. The rationale for EPA's action is explained in the NPR and will not be restated here. No comments were received on the NPR.

II. Summary of EPA's Evaluation of the Liberty-Clairton $PM_{2.5}$ Air Quality Data

This final ''clean data determination'' for the Liberty-Clairton Area is based on the quality-controlled, quality assured, certified $PM_{2.5}$ air quality data for 2012–2014. There are two $PM_{2.5}$ monitors in the Liberty-Clairton Area—one in Liberty Borough and one in the City of Clairton. The design values for the two monitors in the Liberty-Clairton Area for the 2012–2014 monitoring period were 35 $\mu g/m^3$ or less. Therefore, EPA determines that the Liberty-Clairton Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS during the 2012–2014 monitoring period, in accordance with 40 CFR part 50. Additional information on air quality data for the Liberty-Clairton Area can be found in the NPR and technical support document (TSD) prepared for the proposed action.

III. Final Actions

EPA determines that the Liberty-Clairton Area is currently attaining the 2006 24-hour $PM_{2.5}$ NAAQS, based on the most recent three years of complete quality-assured, and certified data for 2012–2014 which meets the requirements of 40 CFR part 50, appendix N. In accordance with our Clean Data Policy, as a result of this final determination of attainment, EPA also determines that the obligation to submit the following attainment-related planning requirements for the Liberty-Clairton Area are not applicable for so long as the Area continues to monitor attainment for the 2006 24-hour $PM_{2.5}$ NAAQS: Subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of section 189(a)(1)(C), the RFP provisions of section 189(c), and related attainment demonstration, RACM, RFP, and contingency measure provisions requirements of subpart 1, section 172. If at any time after the effective date of this final rulemaking notice, EPA determines that the Liberty-Clairton Area again violates the 2006 24-hour $PM_{2.5}$ NAAQS, the basis for suspending these requirements would no longer exist. This final rulemaking action does not constitute a redesignation to attainment under CAA section 107(d)(3). In addition, this determination does not relieve Pennsylvania from the requirement to submit for the Liberty-Clairton Area an emissions inventory as required by CAA section 172(c)(3) or to have a nonattainment area permitting program pursuant to CAA sections 172(c)(5) and 173.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, determining that the Liberty-Clairton Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: June 25, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2059 is amended by adding paragraph (q) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(q) Determination of attainment. EPA has determined, as of July 10, 2015, based on quality-assured ambient air quality data for 2012 to 2014, that the Liberty-Clairton, PA nonattainment area has attained the 2006 24-hour fine particle ($PM_{2.5}$) national ambient air quality standards (NAAQS). This determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2006 24-hour $PM_{2.5}$ NAAQS. If EPA determines, after notice-and-comment rulemaking, that this area no longer meets the 2006 24-hour $PM_{2.5}$ NAAQS, the corresponding determination of attainment for that area shall be withdrawn.

[FR Doc. 2015–16813 Filed 7–9–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 12–107; FCC 15–56]

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts additional rules under the authority of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) to make emergency information in video programming accessible to individuals who are blind or visually impaired. First, the document requires multichannel video programming distributors to pass through a secondary audio stream containing audible emergency information when they permit consumers to access linear programming on second screen devices, such as tablets, smartphones, laptops, and similar devices. Second, the document requires manufacturers of apparatus that receive or play back video programming to provide a mechanism that is simple and easy to use for activating the secondary audio stream to access audible emergency information.

DATES: Effective August 10, 2015.

FOR FURTHER INFORMATION CONTACT: Evan Baranoff, *Evan.Baranoff@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* (Order), FCC 15–56, adopted on May 21, 2015, and released on May 28, 2015. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web site at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) Web site at *http://fjallfoss.fcc.gov/ecfs2/.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. In this *Second Report and Order,* we take additional steps under the authority of sections 202 and 203 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (''CVAA'') [1] to make emergency information in video programming accessible to individuals who are blind or visually impaired. The Commission adopted rules in 2013 to require that visual emergency information shown during non-newscast television programming, such as in an on-screen crawl, is also available to individuals who are blind or visually impaired through an aural presentation on a secondary audio stream.[2] In adopting these rules pursuant to sections 202 and 203 of the CVAA, the Commission recognized the importance of making sure that individuals who are blind or visually impaired are able to hear critical information about emergencies affecting their locality, which can enable them promptly to respond to such emergency situations and to protect their lives and property.

2. First, this *Second Report and Order* concludes that multichannel video programming distributors (''MVPDs'')

[1] Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751 (2010); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

[2] *See Accessible Emergency Information; Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket Nos. 12–107, 11–43, Report and Order, FCC 13–45, 78 FR 31770 (2013) (''*First Report and Order*''). A secondary audio stream is an audio channel, other than the main program audio channel, that is typically used for foreign language audio and video description.

must pass through a secondary audio stream containing audible emergency information in accordance with section 79.2 of the Commission's rules [3] when they permit consumers to access linear programming [4] on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. Increasingly, Americans are utilizing a wide range of devices in addition to the television to view video programming,[5] and a number of MVPDs now allow customers to view linear programming on ''second screen'' devices using applications or other technologies.[6] Our rule ensures that individuals who are blind or visually impaired will be provided with accessible emergency information when they are watching linear programming over the MVPD's network as part of their MVPD services, regardless of whether they are viewing the programming on their television or on their tablet, smartphone, or similar device.

3. Second, this *Second Report and Order* requires manufacturers of apparatus subject to section 79.105 of the Commission's rules [7] to provide a mechanism that is simple and easy to use for activating the secondary audio stream to access audible emergency information. Individuals who are blind or visually impaired should not have to navigate through multiple levels of menus or take other time-consuming actions to activate the secondary audio stream when they hear the aural tone signaling that emergency information is being provided visually on the screen. In emergency situations, every second counts. Thus, we believe that in order for emergency information to be made fully accessible to individuals who are blind or visually impaired in accordance with section 203 of the CVAA, manufacturers of covered apparatus must ensure that such individuals have a simple, easy to use mechanism to activate the secondary audio stream in order to hear emergency information.

4. In the *Second Further Notice of Proposed Rulemaking* (''*Second Further Notice*'') accompanying the *Second Report and Order* (and published in this issue of the **Federal Register**), we seek comment on three issues: (i) Whether we should adopt rules regarding how covered entities should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time; (ii) whether we should reconsider the Commission's requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream; and (iii) whether we should require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services.

II. Background

5. The CVAA was enacted on October 8, 2010 with the purpose of ensuring that individuals with disabilities are able to fully utilize modern communications services and equipment and to better access video programming.[8] Sections 202 and 203 of the CVAA address, in part, the accessibility of emergency information for individuals who are blind or visually impaired.[9] Specifically, section 202 of the CVAA directs the Commission to (i) ''identify methods to convey emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations [10]) in a manner accessible to individuals who are blind or visually impaired,'' [11] and (ii) ''promulgate regulations that require video programming providers and video programming distributors (as those terms are defined in section 79.1 of title 47, Code of Federal Regulations [12]) and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.'' [13] Section 203 of

[3] 47 CFR 79.2.

[4] The term ''linear programming'' is generally understood to refer to video programming that is prescheduled by the video programming provider. *See Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services,* MB Docket No. 14–261, Notice of Proposed Rulemaking, FCC 14–210, 80 FR 2078 (2014) (''*MVPD Definition NPRM*'') (using the term ''linear programming'' ''consistent with prior Commission use''); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* MB Docket No. 14–16, Notice of Inquiry, FCC 14–8, 79 FR 8452 (2014) (''A linear channel is one that distributes programming at a scheduled time. Non-linear programming, such as video-on-demand ('VOD') and online video content, is available at a time of the viewer's choosing.'')).

[5] *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* MB Docket No. 14–16, Sixteenth Report, FCC 15–41, para. 336 (rel. Apr. 2, 2015) (''*16th Video Competition Report*'') (''IP video distribution opportunities for MVPDs and [online video distributors] continu'e to expand through portable media devices.'').

[6] For example, Cablevision, Charter, Comcast, Cox, and Time Warner Cable currently offer applications that allow their subscribers to view linear programming on mobile and other devices.

[7] 47 CFR 79.105.

[8] *See* H.R. Rep. No. 111–563, 111th Cong., 2d Sess. at 19 (2010); S. Rep. No. 111–386, 111th Cong., 2d Sess. at 1 (2010).

[9] Pursuant to Section 201 of the CVAA, the Chairman of the Commission established an advisory committee known as the Video Programming Accessibility Advisory Committee (''VPAAC''), comprised of representatives from industry and consumer groups, which submitted its statutorily mandated report addressing accessible emergency information to the Commission on April 9, 2012. *See* Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010, *available at http://vpaac.wikispaces.com*; Public Law 111–260, sec. 201(e)(2) (''*VPAAC Second Report: Access to Emergency Information*''). The portion of the report that addresses emergency information is available at *http://vpaac.wikispaces.com/file/view/120409+VPAAC+Access+to+Emergency+Information+REPORT+AS+SUBMITTED+4-9-2012.pdf. See also Media Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Second VPAAC Report: Video Description and Access to Emergency Information,* MB Docket No. 12–107, Public Notice, DA 12–636 (MB rel. Apr. 24, 2012).

[10] ''Emergency information'' is defined in section 79.2 of the Commission's rules as ''[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.,* critical details regarding the emergency and how to respond to the emergency. Examples of the types of emergencies covered include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.'' 47 CFR 79.2(a)(2). As in the *First Report and Order,* we note that the emergency information covered by this proceeding does not include emergency alerts delivered through the Emergency Alert System (EAS), the accessibility requirements for which are contained in Part 11 of the Commission's rules. *See* 47 CFR 11.1 *et seq.*; *First Report and Order,* para. 9. However, to the extent a broadcaster or other covered entity uses the information provided through EAS or any other source (*e.g.,* the National Weather Service) to generate its own crawl conveying emergency information as defined in section 79.2(a)(2) outside the context of an EAS activation, it must comply with the requirements of section 79.2. *See First Report and Order,* para. 9.

[11] 47 U.S.C. 613(g)(1).

[12] Section 79.1 defines a ''video programming provider'' as ''[a]ny video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to broadcast or nonbroadcast television network and the owners of such programming.'' 47 CFR 79.1(a)(12). Section 79.1 defines a ''video programming distributor'' as ''[a]ny television broadcast station licensed by the Commission and any multichannel video programming distributor as defined in § 76.1000(e) of this chapter, and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.'' *Id.* 79.1(a)(11).

[13] 47 U.S.C. 613(g)(2).

the CVAA directs the Commission to prescribe rules requiring certain apparatus on which consumers receive or play back video programming, such as televisions, set-top boxes, DVD and Blu-ray players, to have the capability to decode and make available emergency information and video description services in a manner accessible to individuals who are blind or visually impaired, and requiring certain apparatus designed to record video programming to enable the rendering or pass through of emergency information and video description.[14]

6. The Commission adopted the *First Report and Order* on April 9, 2013.[15] The record compiled in the proceeding reflected consensus among industry and consumer groups supporting use of a secondary audio stream to provide emergency information in a manner accessible to individuals who are blind or visually impaired, which was recommended by the VPAAC.[16] Thus, to implement the emergency information requirements in Section 202, the *First Report and Order* adopted rules requiring that video programming providers (including program owners) and video programming distributors use a secondary audio stream to convey televised emergency information aurally, when such information is conveyed visually during programming other than newscasts.[17] Pursuant to section 203, the *First Report and Order* also adopted rules applicable to manufacturers that require apparatus designed to receive, play back, or record video programming transmitted simultaneously with sound to make available the secondary audio stream.[18]

7. In the *Further Notice of Proposed Rulemaking* (''*Further Notice*'') that accompanied the *First Report and Order,* the Commission sought comment on whether MVPDs are covered by the emergency information rules when they permit their subscribers to access linear programming via mobile or other devices.[19] In a separate *Further Notice of Proposed Rulemaking* issued in conjunction with the Commission's *User Interfaces Order*[20] (''*User Interfaces Further Notice*''), also under MB Docket No. 12–107, the Commission sought comment on whether to require manufacturers of apparatus covered by section 203 of the CVAA to provide access to the secondary audio stream used for audible emergency information by a simple and straightforward mechanism, such as a mechanism reasonably comparable to a button, key, or icon.[21] In particular, the Commission sought comment on whether section 303(u)(1)(C) of the Communications Act of 1934, as amended (the ''Act''), as added by section 203 of the CVAA, which requires that covered apparatus have the capability to make available emergency information in a manner that is accessible to individuals who are blind or visually impaired, gives the Commission authority to adopt such a requirement.[22] Consumer and academic commenters, including the American Foundation for the Blind (''AFB''), the American Council of the Blind (''ACB''), and the Rehabilitation Engineering Research Center for Wireless Technologies (''Wireless RERC''), support such a requirement, while industry commenters oppose it.

8. To further implement sections 202 and 203 of the CVAA, we adopt the rules discussed below. Consistent with the intent of the CVAA, we must ensure that individuals with disabilities are not left behind as new technologies and platforms for viewing video programming are developed, and we are mindful of this as we revise our rules promoting the accessibility of emergency information.

III. Discussion

A. Accessible Emergency Information Requirements for Linear Programming on Mobile and Other Devices

9. Given the increasing number of ways in which consumers are accessing linear video programming from MVPDs, we believe that it is important to further define MVPD responsibilities with regard to the secondary audio stream for emergency information on mobile and other devices. Specifically, we conclude that MVPDs must pass through a secondary audio stream containing audible emergency information when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices[23] over the MVPD's network as part of their MVPD services.[24] For our purposes here, linear video programming is accessed ''over the MVPD's network''[25] if it can only be received via a connection provided by the MVPD[26] using an MVPD-provided application or plug-in.[27]

1. Legal and Policy Analysis

10. In the *Further Notice,* we inquired whether an MVPD is acting as a ''video programming distributor'' that provides

[14] *Id.* 303(u)(1), 303(z)(1).

[15] *See generally First Report and Order.*

[16] *See First Report and Order*, para. 13; *VPAAC Second Report: Access to Emergency Information* at 7, 10–11.

[17] *See First Report and Order,* para. 12; 47 CFR 79.2(b)(2)(ii). The Commission did not revise the existing requirement applicable to emergency information provided visually during newscasts, explaining that the rule already requires such information to be made accessible to individuals who are blind or visually impaired through aural presentation in the main program audio. *First Report and Order,* para. 10. *See* 47 CFR 79.2(b)(2)(i).

[18] *See First Report and Order,* paras. 49, 52; 47 CFR 79.105 through 79.106.

[19] *See Accessible Emergency Information; Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket Nos. 12–107, 11–43, Further Notice of Proposed Rulemaking, FCC 13–45, 78 FR 31800 (2013) (''*Further Notice*'') (accompanying *First Report and Order*). The Commission also sought comment on the following issues in the *Further Notice*: (i) Whether MVPDs must pass through video description on the secondary audio stream when they permit their subscribers to access linear programming via mobile or other devices; (ii) whether the Commission should mandate that the secondary audio stream include a particular tag (*e.g.,* a ''visually impaired'' (''VI'') tag); and (iii) whether the Commission should require covered entities to provide customer support services that are specifically designed to assist consumers who are blind or visually impaired to navigate between the main and secondary audio streams. *See id.* The Commission is continuing to consider these issues.

[20] *See Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket Nos. 12–108, 12–107, Report and Order, FCC 13–138, 78 FR 77210 (2013) (''*User Interfaces Order*''); *Accessibility of User Interfaces, and Video Programming Guides and Menus; Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket Nos. 12–108, 12–107, Further Notice of Proposed Rulemaking, FCC 13–138, 78 FR 77074 (2013) (''*User Interfaces Further Notice*'').

[21] *See User Interfaces Further Notice*, para. 9.

[22] *See id.*; 47 U.S.C. 303(u)(1)(C); Public Law 111–260, sec. 203.

[23] In addition to tablets, smartphones, and laptops, the phrase ''similar devices'' includes other devices on which subscribers can view MVPD-provided linear programming over the MVPD's network, such as personal computers, game consoles, and Roku devices.

[24] At this time, this does not include over-the-top (''OTT'') services, which are at issue in a separate proceeding that considers whether to interpret the term MVPD to include ''services that make available for purchase, by subscribers or customers, multiple linear streams of video programming, regardless of the technology used to distribute the programming.'' *MVPD Definition NPRM,* para. 1. As in the *MVPD Definition NPRM,* we use the term OTT to refer to linear video services that travel over the Internet and that MVPDs do not treat as managed video services on any MVPD system.

[25] This definition applies when we use the phrase ''over the MVPD's network'' throughout the item.

[26] Video is ''received via a connection provided by the MVPD'' if it is received either via an MVPD's broadband connection or if it is video that comes over a coaxial or satellite connection that is converted to IP in the home gateway.

[27] This is distinguishable from video programming provided over the Internet, which can be accessed by an MVPD subscriber when using either an MVPD-provided connection, or a third-party Internet service provider or broadband connection. For example, a customer that uses a tablet connected to a bookstore's Wi-Fi to access video programming would not be accessing the programming ''over the MVPD's network.''

''video programming'' covered by the emergency information rules adopted in the *First Report and Order* when it permits its subscribers to access linear programming that contains emergency information via tablets, laptops, personal computers, smartphones, or similar devices.[28] We also sought comment on whether, under this approach, an MVPD should be required to ensure that any application or plug-in that it provides to the consumer to access such programming is capable of making emergency information audible on a secondary audio stream.

11. We conclude that the accessible emergency information requirements adopted in the *First Report and Order* should apply to linear video programming distributed by MVPDs to their subscribers over the MVPD's network, regardless of the device on which such programming is viewed. In the *First Report and Order,* the Commission determined that the accessible emergency information requirements adopted therein apply to video programming subject to section 79.2 that is provided by a covered entity, *i.e.,* video programming provided by television broadcast stations licensed by the Commission, MVPDs, and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.[29] As the National Cable & Telecommunications Association (''NCTA'') observes, MVPDs are expressly included within the regulatory definition of a ''video programming distributor.'' [30] Further, linear programming distributed by an MVPD to a subscriber over the MVPD's network is ''video programming'' subject to section 79.2 of the rules. In other words, it is ''[p]rogramming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and exhibited for residential use.'' [31] Accordingly, MVPDs must comply with the accessible emergency information requirements when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services.[32] Further, section 202 of the CVAA gives the Commission discretion in how it implements the requirement that video programming distributors, including MVPDs, ''convey [ ] emergency information in a manner accessible to individuals who are blind or visually impaired.'' [33] Thus, applying the emergency information rules when MVPDs permit subscribers to access linear programming on mobile and other devices over the MVPD's network adheres to the statutory directive to ensure that emergency information is conveyed in an accessible manner to individuals with visual disabilities.

12. NCTA, AT&T Services, Inc. (''AT&T''), and the Wireless RERC argue that MVPDs should be covered by the emergency information rules in section 79.2 when they provide linear programming that contains emergency information for viewing on mobile and other devices within the home. NCTA contends that ''a cable operator delivering linear broadcast stations containing emergency information (or any other linear video programming service that might provide an aural version of emergency information covered by the rules) within a subscriber's home would be a 'video programming distributor' for . . . purposes [of the rules], even if the linear service is received through use of an operator-supplied app on a device owned by a consumer.'' [34] According to NCTA, ''cable operators would not object to applying the emergency information rules in these circumstances.'' [35] Likewise, AT&T states that ''when an MVPD is allowing its subscribers to access video programming that is distributed to the home via the MVPD's network, the MVPD is subject to the Commission's emergency information rules, regardless of the devices that are accessing the video programming.'' [36] The Wireless RERC agrees with AT&T's position.[37]

13. We believe that requiring MVPDs to pass through a secondary audio stream with audible emergency information in these circumstances will further the goals of the CVAA by helping to ensure that emergency information is made accessible to individuals who are blind or visually impaired when they watch linear video programming provided by their MVPD over the MVPD's network, regardless of the device on which they are viewing the programming. The number of ways in which consumers are able to access linear programming from their MVPDs is growing. As NCTA points out, ''[c]able operators, as part of their existing services, increasingly are providing applications ('apps') or other technologies that enable their subscribers to view linear programming within the home over the cable operator's network.'' [38] Consumer advocates emphasize the importance of making sure that the emergency information rules keep pace with such trends and urge the Commission to apply the emergency information rules

[28] *Further Notice*, para. 2.

[29] *First Report and Order,* para. 7; 47 CFR 79.1(a)(10) through (11).

[30] *See* Comments of the National Cable & Telecommunications Association, MB Docket Nos. 12–107, 11–43, at 3 (''NCTA Comments''); 47 CFR 79.1(a)(11). *See also First Report and Order,* para. 33.

[31] *See* NCTA Comments at 3; 47 CFR 79.1(a)(10).

[32] Given that we apply the rules only when MVPDs permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services, and not to OTT services at this time, we need not address the issues raised by industry commenters with regard to whether the Commission has authority under the CVAA to extend the accessible emergency information requirements in Section 79.2 to all linear programming delivered over the Internet or via Internet protocol (''IP''). *See* Comments of AT&T Services, Inc., MB Docket Nos. 12–107, 11–43, at 3 (''AT&T Comments''); Comments of DIRECTV, LLC, MB Docket Nos. 12–107, 11–43, at 5–6 (''DIRECTV Comments''); Comments of the Consumer Electronics Association, MB Docket Nos. 12–107, 11–43, at 6 (''CEA Comments''); Comments of the Telecommunications Industry Association, MB Docket Nos. 12–107, 11–43, at 3–4 (''TIA Comments''); Reply Comments of the Entertainment Software Association, MB Docket Nos. 12–107, 11–43, at 3 (''ESA Reply''); Reply Comments of the Information Technology Industry Council, MB Docket Nos. 12–107, 11–43, at 3–4 (''ITIC Reply''). *See also* Reply Comments of the National Association of Broadcasters, MB Docket Nos. 12–107, 11–43, at 2 (''NAB Reply'').

[33] 47 U.S.C. 613(g)(2).

[34] NCTA Comments at 3.

[35] *Id.*

[36] AT&T Comments at 3.

[37] Reply Comments of the Rehabilitation Engineering Research Center for Wireless Technologies, MB Docket Nos. 12–107, 11–43, at 5 (''Wireless RERC Reply'').

[38] *See* NCTA Comments at 2; Wireless RERC Reply at 4; Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, at 1 (Apr. 4, 2014) (''NCTA Apr. 4, 2014 *Ex Parte* Letter''). *See also Further Notice,* n.6 (stating that Cablevision currently permits consumers to access its entire package of video programming, including broadcast channels that contain emergency information, through its Optimum app for the iPad and other devices); Charter Communications, Press Release, *Charter Announces Launch of Charter TV App* (Apr. 8, 2014) (announcing the Charter TV App available for free download on various platforms, through which ''Charter TV customers can now watch over 130 live TV Channels anywhere inside their home on their mobile devices such as tablets or smartphones''); Comcast, Xfinity TV Apps, *available at http://xfinitytv.comcast.net/apps* (''Turn any device into a personal TV screen anywhere in your home. Stream any channel live, watch XFINITY On Demand™ and access your DVR shows on your tablet, smartphone or computer.''); Cox, About the Contour App, *available at http://www.cox.com/residential/support/tv/article.cox?articleId=ee838930-c7d7-11e2-caa8-000000000000* (''With the Contour App, you can [w]atch over 130 live channels and thousands of On Demand programs while in the home.''); Time Warner Cable, TWC TV App, *available at http://www.timewarnercable.com/en/tv/features/twc-tv.html* (''Watch up to 300 live TV channels on up to five of your favorite devices simultaneously in your home with the TWC TV app'').

to mobile and other devices.[39] In addition, the Wireless RERC explains that individuals who are blind or visually impaired may not draw a distinction between regular television broadcasts and linear programming on mobile and other devices offered as part of an MVPD's services and, therefore, they argue that the emergency information rules should apply equally to the latter.[40] We concur. Consumers who choose to watch linear programming offered by an MVPD on a mobile device over the MVPD's network should not be deprived of timely and potentially life-saving accessible emergency information that they otherwise would have received had they watched the same programming on a television.

14. Although we inquired in the *Further Notice* as to whether the emergency information rules should apply to an MVPD's linear programming accessed outside the home, we find it more appropriate to apply the rules when MVPDs permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. In the *Further Notice,* we noted that some MVPDs currently enable subscribers to access linear programming inside the home as well as outside the home (*i.e.,* TV Everywhere [41]), and we sought comment on whether our emergency information rules should apply in both situations, irrespective of where the subscriber is physically located when accessing the programming.[42] Instead of applying our rules based on where the consumer is located when viewing the programming, we look instead to whether the programming is provided over the MVPD's network, as opposed to over the Internet, given that Internet-based video services are currently at issue in a separate proceeding. NCTA argues that the rules should apply only within an MVPD subscriber's home, and not outside of the home, ''both because of the limited scope of the statutory and regulatory definitions, and because of the nature of emergency information.'' [43] We conclude that focusing on whether the services are provided over the MVPD's network more clearly delineates the services subject to the rule and avoids confusion as to whether the rule applies with respect to OTT services that consumers may be able to access in their homes.[44] Further, to the extent NCTA's ''in the home'' construction is intended to ensure that the emergency information rules do not apply to video programming accessed over the Internet, our approach to cover linear programming accessed over the MVPD's network as part of an MVPD's services accomplishes this objective. Our emergency information rules do not apply, at this time, to an MVPD's linear programming that is accessed via the Internet, such as TV Everywhere offerings.

15. As mentioned above, we do not apply these rules to over-the-top services provided by MVPDs at this time. In December 2014, we adopted a *Notice of Proposed Rulemaking* proposing to include within the definition of MVPD certain Internet-based video services.[45] Specifically, we proposed ''to modernize our interpretation of the term 'multichannel video programming distributor' ('MVPD') by including within its scope services that make available for purchase, by subscribers or customers, multiple linear streams of video programming, regardless of the technology used to distribute the programming.'' [46] In that NPRM, we specifically sought comment on the application of our rules pertaining to accessibility of emergency information by persons with disabilities to Internet-based distributors of video programming that qualify as MVPDs under the proposed definition.[47] We conclude, therefore, that application of the emergency information rules to such services is better addressed in that proceeding.

2. MVPD Obligations

16. We conclude that MVPDs must ensure that any application or plug-in that they provide to consumers to access linear programming over the MVPD's network on mobile and other devices is capable of passing through the aural representation of emergency information (including the accompanying aural tone) on a secondary audio stream. In so concluding, we do not change the underlying obligations applicable to video programming distributors and video programming providers as set forth in the *First Report and Order.* In the *First Report and Order,* the Commission concluded that the video programming distributor or video programming provider that creates visual emergency information content and adds it to the programming stream is responsible for providing an aural representation of the information on a secondary audio stream, accompanied by an aural tone.[48] The Commission also found that video programming distributors are responsible for ensuring that the aural representation of the emergency information and the accompanying aural tone get passed through to consumers.[49] NCTA asserts that ''the *Further Notice* appears to contemplate an additional requirement that operators 'mak[e] the emergency information audible on a secondary audio stream' on devices that they do not control,'' which, they argue, goes

[39] *See* Wireless RERC Reply at 3–4; Comments of Jose Cruz, MB Docket Nos. 12–107, 11–43, at 2 (arguing that ''[t]he blind/visually impaired should be able to access emergency broadcasts from their MVPD . . . through mobile and/or other electronic devices,'' which ''may affect their well-being or the well-being of their families''); Comments of Jeanette M. Schmoyer, MB Docket Nos. 12–107, 11–43, at 1 (arguing that the accessible emergency information requirements should apply to television programming delivered over tablets, laptops, smartphones, and similar devices, and stating that ''[a]t the rate technology changes, PC's are already decreasing in sales in favor of laptops and tablets'' and ''[i]nformation provided as a visual element needs to be provided in an audio element no matter what the device'').

[40] *See* Wireless RERC Reply at 4.

[41] *See 16th Video Competition Report,* para. 3 (''These services, referred to as 'TV Everywhere,' allow MVPD subscribers to access both linear and video-on-demand ('VOD') programming on a variety of in-home and mobile Internet-connected devices.''); *id.* at n.22 (''TV Everywhere is an authentication system whereby certain movies and television shows are accessible online via a variety of display devices including personal computer, mobile, and television—but only if you can prove (or 'authenticate') that you have a subscription to an MVPD.''); *id.* para. 85 (''Most of the video programming offered on TV Everywhere is available only to MVPD subscribers. Access to TV Everywhere video programming is restricted through the use of an authentication process that requires a subscriber to select their MVPD service provider and then provide a user ID and password.'') (citation omitted).

[42] *Further Notice,* para. 2.

[43] NCTA Comments at 3, n.11. *See also* AT&T Comments at 1; CEA Comments at 4 (''The Commission consistently has applied Section[ ] 79.2 only in the context of traditional broadcast television and MVPD services, which are classic examples of services for residential reception that deliver such programming directly to the home.'') (citation omitted); TIA Comments at 4 (''The Commission's video description and emergency information requirements are appropriately limited to the MVPD's traditional programming offered within the home, and that qualifies as linear video programming under Part 79.1 of the Commission's rules.''); ESA Reply at 3 (''The CVAA imposes emergency information requirements not on the full range of video programming, but only on that programming intended for in-home reception.'').

[44] Moreover, we disagree with NCTA's argument that emergency information is irrelevant to a subscriber outside of his or her home. *See* NCTA Comments at 3, n.11.

[45] *See MVPD Definition NPRM,* para. 1.

[46] *Id.*

[47] *Id.* at para. 56.

[48] *First Report and Order,* para. 36; 47 CFR 79.2(b)(2)(ii). In addition, both video programming distributors and video programming providers are responsible for ensuring that aural emergency information supersedes all other programming on the secondary audio stream, with each entity responsible only for its own actions or omissions in this regard. *First Report and Order,* para. 36; 47 CFR 79.2(b)(5).

[49] *First Report and Order,* para. 36; 47 CFR 79.2(b)(2)(ii).

beyond the requirement to ensure that aural emergency information gets passed through to consumers.[50] We agree that, consistent with the responsibilities set forth in the current rule, to the extent MVPDs do not originate visual emergency information that is added to the programming stream, they are not responsible for providing an aural representation of the information on a secondary audio stream.[51] MVPDs are responsible for ensuring that the aural representation of emergency information on the secondary audio stream gets passed through to consumers, and we find that this obligation applies if the MVPD permits the consumer to view linear programming on mobile and other devices over the MVPD's network as part of its MVPD services.

3. Apparatus Manufacturer Obligations

17. We also sought comment in the *Further Notice* as to whether apparatus manufacturers covered by section 203 of the CVAA should be required to ensure that tablets, laptops, personal computers, smartphones, and similar devices are capable of receiving the secondary audio stream.[52] As part of this inquiry, we asked whether apparatus manufacturers should be solely responsible for making emergency information accessible on these types of devices, or whether both the MVPD and the manufacturer have a role in facilitating the provision of the secondary audio stream on such devices.[53] Consumer electronics industry commenters argue that manufacturers should not be subject to compliance obligations because apparatus have no control over the audio functionality of MVPD applications and technologies used to distribute linear programming on mobile and other devices.[54] For example, CTIA–The Wireless Association (''CTIA'') explains that mobile device manufacturers have no control over the development or installation of MVPD applications, and once an MVPD application is installed on a mobile device, the application controls the audio capabilities, *i.e.,* whether there are multiple audio streams and which audio stream is heard by the user.[55] According to CTIA, ''the mobile device simply supports the general audio functionality of the device, so that it will play whatever audio stream the app itself provides.'' [56] Likewise, CEA contends that if an MVPD application is capable of delivering and switching between more than one audio stream for linear programming, the device generally will play the audio stream delivered by the application.[57]

18. Based on the record, we do not impose compliance obligations on the manufacturers of apparatus covered by section 203 of the CVAA with regard to ensuring that any application or plug-in that MVPDs provide to consumers to access linear programming on mobile and other devices is capable of passing through audible emergency information on a secondary audio stream. The record demonstrates that such entities typically do not control either the applications or technologies in question or the ability of consumers to select and receive the secondary audio stream for MVPD-provided linear programming on mobile and other devices. We believe that the responsibility for passing through the aural representation of emergency information in the secondary audio stream properly lies with MVPDs. However, to the extent MVPD applications or other technologies have been designed and developed to work on a specific type of device or platform, we expect that users will be able to hear the secondary audio stream in an MVPD application through the native audio functionality of the device, as professed by industry commenters. We may impose obligations on manufacturers in the future if we find that the apparatus itself does not make a secondary audio stream with audible emergency information from an MVPD application available to the apparatus user or otherwise impedes the ability of a user to hear the secondary audio stream.[58]

4. Compliance Deadline

19. We adopt a compliance deadline of two years after publication of the *Second Report and Order* in the **Federal Register**. NCTA requests that the Commission provide MVPDs at least two years after adoption of new requirements to come into compliance because of the technical challenges involved.[59] NCTA explains that passing through a secondary audio stream to mobile and other devices in the home is ''a different, more complex, and more costly matter'' than passing a secondary audio stream through to a television set.[60] According to NCTA, ''cable operators generally just pass through the primary audio stream to operator-provided apps,'' and thus, ''operators would have to acquire additional equipment and encoding to support the pass through of an additional audio stream in IP,'' and ''operators may need to provide audio enhancements to many different apps created to serve a multiplicity of devices in the home.'' [61] Given these challenges, NCTA asks for sufficient time to allow operators to support the capability for a secondary audio stream on these devices going forward.[62] DIRECTV states that developing the technological ecosystem to support a secondary audio stream for emergency information in the IP context ''would be a massive undertaking'' because linear programming delivered via IP does not currently include this capability, the equipment used to view such programming does not currently support it, and adding additional data to

[50] NCTA Comments at 3–4 (citation omitted).

[51] Although NCTA argues that ''[c]able operators do not originate the type of 'emergency information' addressed by the Commission's new rule,'' but ''simply pass along the aural emergency information contained in a secondary audio stream that is created by the originator of that information,'' NCTA Comments at 4, we reiterate our position ''that to the extent an MVPD does create a crawl or other visual graphic conveying local emergency information as defined in Section 79.2 and embeds it in non-newscast programming, it should also be responsible for making the visual emergency information aurally accessible.'' *First Report and Order,* n.38.

[52] *Further Notice,* para. 3.

[53] *Id.*

[54] *See* Comments of CTIA–The Wireless Association, MB Docket Nos. 12–107, 11–43, at 2, 5–6 (''CTIA Comments''); CEA Comments at 10–11; TIA Comments at 4–5; ITIC Reply at 5; Letter from Julie M. Kearney, Vice President, Regulatory Affairs, CEA, to Marlene H. Dortch, Secretary, FCC, at 2 (Mar. 28, 2014) (''CEA Mar. 28, 2014 *Ex Parte* Letter''). *See also* Wireless RERC Reply at 5 (agreeing with TIA and CTIA that the responsibility for accessible emergency information on mobile and other devices lies with MVPDs because they are providing the video programming via an application or Web site, and ''thus the mobile device in this case is serving as a conduit'').

[55] CTIA Comments at 5.

[56] *Id.*

[57] CEA Mar. 28, 2014 *Ex Parte* Letter at 1–2.

[58] *See* ESA Reply at 4 (''If . . . the Commission were to impose emergency information requirements on IP-delivered linear video programming within the home, any responsibility on devices should be limited to a 'do not block' or 'do no harm' requirement.''). *See also* Wireless RERC Reply at 5 (''[I]f mobile device manufacture[r]s at any point incorporate the ability to tune into linear programming via a chip or other built-in modification (via software, hardware or firmware) or an app that is 'integrated into a mobile device by the manufacturer,' then the device manufacturer should be responsible for ensuring the provision of accessible emergency information.'') (citation omitted).

[59] NCTA Comments at 5. *See also* CEA Comments at 9 (arguing that a two-year period would be consistent with deadlines the Commission has adopted in other CVAA proceedings); ESA Reply at 4 (suggesting that ''any deadline should be subject to industry development of appropriate technical standards, with a subsequent phase-in period of at least two years after adoption of such standard to address any complicated handoffs of other technical and business challenges'').

[60] NCTA Comments at 4–5.

[61] *Id.* at 5. *See also* NCTA Apr. 4, 2014 *Ex Parte* Letter at 1–2.

[62] NCTA Apr. 4, 2014 *Ex Parte* Letter at 2.

the video stream would further congest strained broadband capabilities.[63]

20. Although we acknowledge that today MVPDs typically pass through a single audio stream in the IP context,[64] the record also demonstrates that at least some MVPDs are already able to use a secondary audio stream to deliver emergency information when they provide linear programming on mobile and other devices. Notably, Comcast has made investments in infrastructure to enable the secondary audio stream when it offers its cable services through its Xfinity applications, and, currently, ''Comcast customers can access the secondary audio stream via the Xfinity user interface on a number of third-party devices.'' [65] Further, Cablevision customers currently can access the secondary audio stream when using Cablevision's Optimum application on a laptop or personal computer, though not when using this application on other mobile devices.[66] Cablevision has already initiated efforts to transmit the secondary audio stream over the Optimum application on mobile and other devices, and explains that the process of implementing this functionality involves further development of the application, software upgrades, and testing.[67]

21. Based on our review of the record, we conclude that a compliance deadline of two years after publication of the *Second Report and Order* in the **Federal Register** is reasonable, though we encourage covered MVPDs to offer this functionality as soon as it is technically feasible for them to do so. The record shows that MVPDs may need to take a number of steps to achieve compliance, such as acquiring additional equipment to support the pass through of the secondary audio stream for IP and developing or modifying applications to support this type of audio functionality for a number of devices. We believe that a two-year period will provide sufficient time for MVPDs to achieve these steps, along with the requisite testing and implementation, and is consistent with other timeframes adopted by the Commission for CVAA-related compliance.[68]

B. Activation Mechanism for Audible Emergency Information on the Secondary Audio Stream

22. We require manufacturers of apparatus subject to section 79.105 of the Commission's rules [69] to provide a mechanism that is simple and easy to use, such as one that is reasonably comparable to a button, key, or icon, for activating the secondary audio stream for audible emergency information. We conclude that such a requirement is necessary to ensure that covered apparatus are capable of making available emergency information in a manner that is accessible to individuals who are blind or visually impaired, as mandated by section 203 of the CVAA.[70]

1. Legal and Policy Analysis

23. In the *User Interfaces Further Notice,* the Commission sought comment on whether to require manufacturers of apparatus covered by section 203 of the CVAA to provide access to the secondary audio stream used for audible emergency information in a simple, straightforward, and timely manner, such as through a mechanism reasonably comparable to a button, key, or icon.[71] Section 303(u)(1)(C) of the Act, as added by Section 203 of the CVAA, requires that apparatus designed to receive and play back video programming transmitted simultaneously with sound ''have the capability to decode and make available emergency information (as that term is defined in section 79.2 of the Commission's regulations (47 CFR 79.2)) in a manner that is accessible to individuals who are blind or visually impaired.'' [72] Further, section 203 also provides the Commission with authority to ''prescribe such regulations as are necessary to implement the requirements of section[] 303(u) . . . of the Communications Act.'' [73] Pursuant to these statutory provisions, we find that the Commission has authority to require that the secondary audio stream—which is used to make emergency information audible to individuals who are blind or visually impaired—be made available on covered apparatus in a manner that is accessible to such individuals.[74]

24. As noted above, in the *First Report and Order,* we required video programming providers and distributors to use the secondary audio stream as the means to provide accessible emergency information for individuals who are blind or visually impaired in accordance with section 202 of the CVAA. Thus, to implement section 203 of the CVAA, we required apparatus designed to receive and play back video programming transmitted simultaneously with sound to decode and make available the secondary audio stream in a manner that enables consumers to select the stream used for transmission and delivery of emergency information.[75] Notably, the Commission was given authority and discretion to promulgate regulations requiring covered entities to convey emergency information in a manner accessible to individuals who are blind or visually impaired. Use of the secondary audio stream to provide audible emergency information was not mandated by Congress.[76] For example, the Commission could have required that visual emergency information be made audible on the main program audio.[77] Given broad-based support from consumers and industry, as well as the recommendation of the VPAAC, however, the Commission decided that the secondary audio stream would be the best method to make visual information presented during non-newscast programming audibly accessible to individuals who are blind

[63] DIRECTV Comments at 7. *See also* NAB Reply at 3.

[64] NCTA Apr. 4, 2014 *Ex Parte* Letter at 1.

[65] *See* Letter from James R. Coltharp, Chief Policy Advisor, FCC & Regulatory Policy, Comcast Corporation, to Marlene H. Dortch, Secretary, FCC, at 1 (May 23, 2014).

[66] *See* Letter from Tara M. Corvo, Counsel for Cablevision Systems Corp., to Marlene H. Dortch, Secretary, FCC, at 1 (June 26, 2014).

[67] *Id.* In addition, we note that Netflix has begun to include alternative audio tracks for their programming on Netflix-supported devices. *See* Todd Spangler, Netflix Adding Audio Description Tracks for Visually Impaired, Starting with 'Marvel's Daredevil,' Variety (Apr. 14, 2015), *available at http://variety.com/2015/digital/news/netflix-adding-audio-description-tracks-for-visually-impaired-starting-with-marvels-daredevil-1201472372/#* (noting that ''the company is working with studios and other content owners to increase the amount of audio description across a range of devices including smart TVs, tablets and smartphones'').

[68] *See First Report and Order*, para. 37.

[69] 47 CFR 79.105. Covered apparatus include apparatus that are designed to receive or play back video programming transmitted simultaneously with sound that is provided by entities subject to sections 79.2 and 79.3, are manufactured or imported for use in the United States, and use a picture screen of any size, subject to certain exemptions. *See id.* 79.105(a) through (b).

[70] 47 U.S.C. 303(u)(1)(C).

[71] *User Interfaces Further Notice*, para. 9.

[72] 47 U.S.C. 303(u)(1)(C).

[73] Public Law 111–260, sec. 203(d).

[74] *See* Reply Comments of the Rehabilitation Engineering Research Center for Wireless Technologies, MB Docket Nos. 12–108, 12–107, at 8 (Feb. 25, 2014) (''Wireless RERC *User Interfaces* Reply Comments''); Reply Comments of the American Foundation for the Blind and the American Council of the Blind, MB Docket Nos. 12–108, 12–107, at 2 (Mar. 20, 2014) (''AFB/ACB *User Interfaces* Reply Comments'').

[75] *First Report and Order,* para. 50; 47 CFR 79.105(a).

[76] *See* 47 U.S.C. 613(g)(1) through (2), 303(u)(1)(C). *See also* S. Rep. No. 111–386, at 13 (''The Committee is aware that emergency alert information is inherently local and time sensitive in nature. Therefore it is the intention of the Committee that the Commission have flexibility with respect to applying the requirements of new section 713(g). . . .''); H.R. Rep. No. 111–563, at 29 (same).

[77] *See VPAAC Second Report: Access to Emergency Information* at 8. *See also id.* at 11–12.

or visually impaired. Yet, emergency information presented aurally on the secondary audio stream is not, as a practical matter, fully accessible to such individuals unless they are able to promptly switch to the secondary audio stream to hear the critical details of an emergency in a timely manner. As the VPAAC concluded, unless blind or visually impaired consumers are able to more easily control the means of accessing the secondary audio stream on devices, ''emergency information present on the secondary audio channel may not be readily accessible.'' [78]

25. Although the requirements related to the provision of accessible emergency information on a secondary audio stream have not yet gone into effect,[79] the experiences of consumers who use the secondary audio stream for video description are illustrative in showing how difficult it is for consumers to access any kind of programming on the secondary audio stream. Currently, the process for activating the secondary audio stream is often arduous and time-consuming.[80] In the *User Interfaces Further Notice,* the Commission observed that individuals who are blind or visually impaired have experienced difficulty with accessing the secondary audio stream because the mechanism for switching to the secondary audio stream from the main program audio is buried in several layers of on-screen menus.[81] Likewise, in a CVAA-required report to Congress on video description, the Commission noted that numerous individual commenters who are blind or visually impaired contend that activating the secondary audio stream on televisions and set-top boxes is challenging, and sometimes impossible for individuals who are blind or visually impaired, due to the complexities of navigating through multiple on-screen menus to select this feature.[82] While it is important that consumers who are blind or visually impaired are able to access the secondary audio stream for video description services, it is even more critical that consumers who are blind or visually impaired are able to access the secondary audio stream for audible emergency information, and that they are able to do so in a timely manner.[83] In an emergency situation, every second counts. Thus, to ensure that emergency information is made readily accessible, we conclude that individuals who are blind or visually impaired must be able to activate the secondary audio stream in a simple and easy to use manner.

26. Requiring a simple and easy to use mechanism for activating the secondary audio stream for emergency information will provide a substantial benefit for consumers who are blind or visually impaired by providing an easy and quick method to switch to the secondary audio stream to hear critical emergency information. According to AFB and ACB, ''the importance of a streamlined and obvious means for accessing emergency information is indispensable,'' given that the information being accessed ''may very well save lives.'' [84] Indeed, as the Commission has consistently recognized, ''providing all viewers with accurate information regarding emergencies is of great importance.'' [85] Emergency information is of unique significance given its potential impact on public safety, and it is essential that persons with disabilities have access to the same time-sensitive emergency information to which other viewers have access. Our emergency information requirements, including the activation mechanism requirement we adopt here, will ensure that critical information that is conveyed on television to further the protection of life, health, safety, and property in an emergency is available to every viewer in a timely manner, including persons with visual disabilities.

27. We find that requiring the provision of a simple and easy to use activation mechanism for audible emergency information on the secondary audio stream is necessary to fulfill the statute's mandate that emergency information be made accessible to individuals who are blind or visually impaired. This is particularly true given the time-sensitive nature of emergency information. At the same time, however, we believe it is important that the industry has flexibility in choosing the precise means for activating the secondary audio stream.[86] Accordingly, we do not mandate a particular means of compliance. For example, we note that the VPAAC stated that covered entities could provide a dedicated button on a remote control to activate the secondary audio stream, a mechanism it singled out as useful.[87] However, we believe the better path is to give industry the flexibility to develop simple and easy to use activation methods, similar to the approach we adopted to implement the requirements of sections 204 and 205 of the CVAA.[88] Some industry commenters have indicated that they have already begun developing innovative approaches to comply with the activation mechanism rules adopted in the *User Interfaces Order.* For example, NCTA states that activation methods now in development include programmable buttons on remote controls and that voice and gesture controls will likely be offered in addition to these methods.[89]

[78] *VPAAC Second Report: Access to Emergency Information* at 7–8 (''To obtain emergency information from television programming, many users with visual disabilities require a greater level of access to controls on receiving devices than most models of such devices offer today. . . . [A] blind or visually impaired person will need a reliable method of accessing the secondary audio feed if emergency information is to be provided on [this] service.'').

[79] Compliance with the accessible emergency information rules adopted in the *First Report and Order* is required by May 26, 2015, subject to certain exceptions. *See* 47 CFR 79.2(b)(2)(ii), 79.105(a), 79.106(a). *See also First Report and Order,* paras. 37–45, paras. 76–77.

[80] *See* AFB/ACB *User Interfaces* Reply Comments at 2 (noting that AFB, ACB, and individual consumers ''have commented on the current difficulty, and frequently virtual impossibility, of locating [video] description controls and turning [video] description on''); *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* MB Docket No. 11–43, Report to Congress, DA 14–945, para. 32, nn.102–05 (MB rel. Jun. 30, 2014) (''*Video Description Report to Congress*'').

[81] *User Interfaces Further Notice,* para. 9.

[82] *Video Description Report to Congress*, para. 32.

[83] *See VPAAC Second Report: Access to Emergency Information* at 7 (''The effective use of video description by the blind or visually impaired for any purpose requires convenient, reliable and readily available access to the video description service [on the secondary audio stream]. If this service is to convey emergency information, the convenience of such access is all the more important.'').

[84] AFB/ACB *User Interfaces* Reply Comments at 2. *See also* Wireless RERC *User Interfaces* Reply Comments at 9 (strongly urging the Commission to adopt a requirement for a mechanism reasonably comparable to a button, key, or icon for accessing the secondary audio stream for audible emergency information because ''[t]his can be a life and death scenario where people with vision disabilities would miss information that affects their immediate safety'').

[85] *Implementation of Section 305 of the Telecommunications Act of 1996, Closed Captioning and Video Description of Video Programming: Accessibility of Emergency Programming,* MM Docket No. 95–176, Second Report and Order, FCC 00–136, 65 FR 26757 (2000).

[86] *See User Interfaces Order,* para. 81 (stating that the requirement to provide an activation mechanism reasonably comparable to a button, key, or icon ''is consistent with Congress's intent 'to ensure ready access to [closed captioning and video description] features by persons with disabilities,' while still giving covered entities the flexibility contemplated by the statute'').

[87] *See VPAAC Second Report: Access to Emergency Information* at 8–9 (''In the event that . . . the crawl or scroll is made auditory in the secondary audio channel, several other methods could possibly be used to assist visually impaired consumers in gaining access to this audio service. For example, physical buttons on the remote control may help individuals with visual disabilities enable the second audio channel.'').

[88] *User Interfaces Order,* para. 81.

[89] *See* National Cable & Telecommunications Association, Opposition to Petition for Reconsideration, MB Docket Nos. 12–108, 12–07, at 7 (filed Feb. 18, 2014). *See also* Letter from James

Continued

28. Industry commenters raise a number of legal arguments as to why they believe the Commission should not require an activation mechanism for audible emergency information on section 203 apparatus, but we find each of them to be unpersuasive. As we explain below, we require covered entities to provide a simple and easy to use activation mechanism and find that a mechanism reasonably comparable to a button, key, or icon would satisfy this standard. We disagree with commenters who contend that the Commission should not require covered entities to provide a simple means for accessing the secondary audio stream for emergency information because section 203 does not contain such a mandate.[90] As explained above, section 303(u)(1)(C) of the Act requires generally that covered apparatus have the capability to make available emergency information in an accessible manner, and section 203 of the CVAA grants the Commission authority to adopt regulations that are necessary to implement this requirement.[91] Thus, the Commission has latitude to adopt requirements that will ensure that emergency information is made available in an accessible manner.

29. For similar reasons, we reject industry commenters' argument that the Commission has no authority to require an activation mechanism for audible emergency information because Congress specifically required an activation mechanism reasonably comparable to a button, key, or icon in sections 204 and 205 of the CVAA, but not in section 203 of the CVAA.[92] CEA opines that ''[i]f Congress had meant for such a specific requirement to apply to emergency information, it surely would have said so in section 203.'' [93] However, this argument also fails to recognize that Congress gave the Commission authority to identify methods to convey emergency information in a manner accessible to individuals who are blind or visually impaired, and to promulgate regulations (i) requiring covered video programming providers and distributors to convey emergency information in an accessible manner, and (ii) requiring covered apparatus to have the capability to make emergency information available in an accessible manner.[94] In other words, as discussed above, when Congress enacted the CVAA, it did not specify the particular requirements for making emergency information available in a manner accessible to individuals who are blind or visually impaired. Rather, it gave the Commission authority and discretion to adopt implementing regulations. Moreover, as Congress did not specify in the statute that covered entities must use a secondary audio stream to convey audible emergency information to individuals who are blind or visually impaired, there was no reason for Congress to mandate a simple and easy to use mechanism to access that stream. Indeed, had the Commission chosen instead to implement section 203 by requiring all emergency information to be audible on the primary audio stream, there would have been no need for an activation mechanism for the secondary audio stream that is reasonably comparable to a button, key, or icon. Thus, even though the ''reasonably comparable to a button, key, or icon'' language is included in other sections of the CVAA, we do not believe its omission from section 203 is indicative of Congress' intent to bar the Commission from requiring an activation mechanism in the emergency information context. We find this argument fails to recognize the rulemaking authority Congress granted the Commission in section 203 to ensure that covered apparatus have the capability to make available emergency information in an accessible manner. As explained above, the record demonstrates that such a mechanism is necessary to carry out the statutory directive.[95]

30. NCTA and CEA point out that the Commission adopted rules pursuant to sections 204 and 205 of the CVAA requiring the accessibility of appropriate built-in apparatus functions on digital apparatus and the audible accessibility of on-screen text menus and guides used for the display or selection of multichannel video programming on navigation devices for individuals who are blind or visually impaired.[96] According to NCTA and CEA, because individuals who are blind or visually impaired will have audible access to the on-screen menus used to locate the secondary audio stream, ''no additional dedicated 'mechanism' will be needed for blind or visually impaired customers to be able to readily locate'' the secondary audio stream for emergency information.[97] Although we believe that these new regulations will make it easier for individuals who are blind or

R. Coltharp, Chief Policy Advisor, FCC & Regulatory Policy, Comcast Corporation, to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 20, 2015) (detailing a demonstration of how consumers can activate and use the talking guide, closed captioning, and video description on Comcast's X1 platform).

[90] Comments of the Consumer Electronics Association, MB Docket Nos. 12–108, 12–107, at 8 (Feb. 18, 2014) (''CEA *User Interfaces* Comments''). *See also* Comments of DISH Network L.L.C. and EchoStar Technologies L.L.C., MB Docket Nos. 12–108, 12–107, at 6 (Feb. 18, 2014) (''DISH/EchoStar *User Interfaces* Comments'') (''The absence of a 'reasonably comparable' mechanism requirement in Section 203 precludes the Commission from imposing such a requirement in that context.''); Reply Comments of the Consumer Electronics Association, MB Docket Nos. 12–108, 12–107, at 5 (Mar. 20, 2014) (''CEA *User Interfaces* Reply Comments'').

[91] 47 U.S.C. 303(u)(1)(C); Public Law 111–260, sec. 203(d).

[92] *See* CEA *User Interfaces* Comments at 9; DISH/EchoStar *User Interfaces* Comments at 5–7; Comments of the National Cable & Telecommunications Association, MB Docket Nos. 12–108, 12–107, at 6 (Feb. 18, 2014) (''NCTA *User Interfaces* Comments'').

[93] CEA *User Interfaces* Comments at 9. *See also* DISH/EchoStar *User Interfaces* Comments at 6 (''If Congress had intended for the Commission to require that access to the secondary audio stream for audible emergency information on apparatus covered by section 203 be available via a mechanism 'reasonably comparable to a button, key, or icon,' or any other specified mechanism, Congress would have stated so.''); NCTA *User Interfaces* Comments at 6 (noting that section 205 specifically references a mechanism for activating closed captioning, but ''section 203 . . . does not reference a mechanism at all. Under these circumstances, no additional authority to impose such a requirement can be inferred.''); CEA *User Interfaces* Reply Comments at 6. *See also* Letter from Diane B. Burstein, Vice President and Deputy General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, at 1 (Feb. 18, 2015) (''NCTA Feb. 18, 2015 *Ex Parte* Letter'').

[94] *See* 47 U.S.C. 613(g)(1) through (2), 303(u)(1)(C).

[95] Commissioner Pai dissents ''from the requirement that manufacturers of televisions, set-top boxes, and other covered devices include in those apparatuses a mechanism for activating the secondary audio stream for emergency information that is reasonably comparable to a button, key, or icon.'' He objects to what he describes as importing into the rules implementing section 203 of the CVAA specific mandates set forth in sections 204 and 205 of the CVAA. *See Statement of Commissioner Ajit Pai, Approving in Part and Dissenting in Part.* The rule we adopt today, however, does no such thing. Rather, it requires only that ''all apparatus subject to this section must provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information.'' *See 47 CFR 79.105(d).* While the dissent distinguishes between ''the capabilities that devices must have'' and ''the means of activating those capabilities,'' *id.,* the Commission finds that distinction artificial. In directing the Commission to ensure that covered apparatus ''have the capability to decode and make available emergency information . . . *in a manner that is accessible to individuals who are blind or visually impaired,''* the majority does not believe that Congress intended that such apparatus have capabilities such as an audio stream of emergency information that are impossible for individuals who are blind or vision impaired to activate quickly when they are needed—in an emergency. Such a distinction would be self-defeating. As discussed in the order, the statutory directive that the Commission adopt rules ensuring that emergency information is *accessible* to individuals who are blind or visually impaired grants the Commission ample authority for the rules we adopt today.

[96] *See* NCTA *User Interfaces* Comments at 7; CEA *User Interfaces* Reply Comments at 6.

[97] *Id. See also* NCTA Feb. 18, 2015 *Ex Parte* Letter at 1, n.2 (''We further explained that audibly-accessible guides and menus will assist blind or visually impaired individuals in locating [the] secondary audio stream that will contain emergency information as well as video description.'').

visually impaired to access the secondary audio stream for video description, they will not fully alleviate accessibility issues with regard to audible emergency information. In particular, if the activation mechanism for the secondary audio stream is buried in multiple levels of menus, it will still be a time-consuming process for individuals who are blind or visually impaired to navigate through those menus, even if the menus are made audible, and such individuals will not have ready and immediate access to time-sensitive emergency information. As AFB and ACB emphasize, ''it is imperative that the Commission . . . ensure ease of use so that consumers are not confounded by avoidable technological barriers at the very time when time is of the essence.'' [98] We find that, as part of their obligation to make emergency information available in a manner that is accessible to individuals who are blind or visually impaired, manufacturers of covered apparatus must ensure that these individuals are provided with a mechanism to quickly activate the secondary audio stream to hear audible emergency information.

2. Apparatus Manufacturer Obligations

31. Manufacturers of apparatus covered by section 79.105 of the Commission's rules must provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information.[99] As described above, to provide some guidance to industry, we find that providing a mechanism reasonably comparable to a button, key, or icon—as is required for activating closed captioning and video description on section 204 digital apparatus, and for activating closed captioning on section 205 navigation devices—would comply with the requirement to provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information. The Commission will consider the simplicity and ease of use of the mechanism in determining whether the statutory requirement has been met, *i.e.,* that the covered apparatus has the capability to make available emergency information in an accessible manner. Consistent with our approach in the *User Interfaces Order,*[100] we will consider examples of compliant mechanisms to include, but not be limited to, a dedicated button, key, or icon; voice commands; gestures; and a single step activation from the same location as the volume controls.[101] This approach will ensure ready access to the secondary audio stream by persons who are blind and visually impaired, while still giving covered manufacturers the flexibility to determine the appropriate activation mechanism, as long as it is simple and easy to use in accordance with our rules.

32. We find that manufacturers are not responsible for providing a simple and easy to use mechanism to activate the secondary audio stream for emergency information on third-party MVPD applications and plug-ins that are downloaded by consumers to view linear programming on mobile and other devices. As noted above, manufacturers typically do not control such applications and, in particular, they do not control the ability of consumers to select and receive the secondary audio stream for linear programming provided through an MVPD application on mobile and other devices. In the *Second Further Notice,* we seek comment on whether we should impose an obligation on MVPDs to provide a simple and easy to use activation mechanism for the secondary audio stream to access emergency information with respect to the applications and plug-ins they provide to consumers to access linear programming on mobile and other devices. In the meantime, we strongly encourage MVPDs to design their applications and plug-ins such in a way that access to the secondary audio stream is simple and easy to use for individuals who are blind or visually impaired. In this regard, we urge MVPDs to consult with the disability community when designing and developing these features.

33. We note that the provisions for achievability determinations, purpose-based waivers, and exemptions that apply to devices covered by Section 79.105 of the Commission's rules will apply equally to the requirement that covered apparatus provide an activation mechanism that is simple and easy to use for accessing the secondary audio stream.[102] In addition, apparatus designed to receive and play back video programming transmitted simultaneously with sound must comply with Section 203 requirements only to the extent they are ''technically feasible.'' [103] Thus, we permit covered manufacturers to raise technical infeasibility as a defense when faced with a complaint alleging a violation of the apparatus requirements adopted herein, or to file a request for a ruling under Section 1.41 of the Commission's rules as to technical feasibility before manufacturing or importing the product, consistent with our approach in the *First Report and Order.*[104] Although we note that apparatus manufacturers may use alternate means of compliance with the rules adopted pursuant to section 203, consistent with our approach in the *First Report and Order,*[105] we believe that few, if any, manufacturers will need to request an alternate means of compliance with the requirement to make the secondary audio stream accessible by providing a simple and easy to use activation mechanism because we do not prescribe the precise means for compliance.

3. Compliance Deadline

34. In the *User Interfaces Further Notice,* the Commission sought comment on the appropriate time frame

[98] AFB/ACB *User Interfaces* Reply Comments at 2.

[99] We emphasize that manufacturers will need to ensure that set-top boxes include a simple and easy to use activation mechanism for emergency information on the secondary audio stream. We seek comment in the *Second Further Notice* on whether we should require MVPDs to provide their customers with set-top boxes that contain the simple and easy to use activation mechanism for the secondary audio stream. We also note that manufacturers of televisions and other digital apparatus covered by section 204 of the CVAA are already required to provide a mechanism reasonably comparable to a button, key, or icon for activating the secondary audio stream for video description by December 20, 2016 and thus, as a practical matter, they should not need to take additional steps to comply with the rule we adopt here. *See* 47 CFR 79.109(a)(2), (c).

[100] *User Interfaces Order,* para. 81.

[101] *Id.* at para. 81. The Commission is considering a Petition for Reconsideration filed by the National Association of the Deaf along with other consumer and academic groups which asks the Commission to reconsider allowing voice commands as compliant mechanisms for activating closed captioning, and to reconsider allowing gestures as compliant mechanisms for activating closed captioning and video description. *See* Petition for Reconsideration of the National Association of the Deaf, Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Hearing Loss Association of America, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Cerebral Palsy and Deaf Organization, and Technology Access Program Gallaudet University, MB Docket Nos. 12–107, 12–108 (Jan. 20, 2014).

[102] *See* 47 CFR 79.105(b)(1) through (2) (exempt apparatus), 79.105(b)(3) (achievability), 79.105(b)(4) (purpose-based waivers). *See also First Report and Order,* paras. 67–74.

[103] *See* 47 U.S.C. 303(u).

[104] *See First Report and Order,* para. 66.

[105] *See id.* at para. 75; Public Law 111–260, sec. 203(e). Under this approach, an entity that seeks to use an alternate means to comply with the apparatus requirements must file a request pursuant to section 1.41 of the Commission's rules for a determination that the proposed alternative satisfies the statutory requirements. *See First Report and Order,* para. 75 (''We will not permit an entity to claim in defense to a complaint or enforcement action that the Commission should determine that the party's actions were a permissible alternate means of compliance.''). We will consider such requests on a case-by-case basis. *See id.*

for requiring covered entities to provide a simple and easy to use mechanism for accessing the secondary audio stream for audible emergency information.[106] The Commission also inquired whether the deadline should be consistent with the deadline for compliance with section 203 apparatus requirements that were adopted in the *First Report and Order* (May 26, 2015) [107] or whether device manufacturers would need additional time to come into compliance.[108]

35. The Wireless RERC, the only party to comment on this issue, argues that the deadline for a requirement to provide a simple and easy to use mechanism for accessing the secondary audio stream for audible emergency information should be consistent with the deadlines for apparatus that the Commission adopted in the *First Report and Order.*[109] The Wireless RERC strongly recommends that the Commission not go beyond the deadlines adopted in that *Order* because delays in implementation of the new requirements could place persons who are blind or visually impaired in a potentially ''perilous position[ ].'' [110] Further, the Wireless RERC asserts that any extensions of the deadline or waivers of the newly adopted regulations ''should be granted very judiciously.'' [111]

36. We conclude that it is reasonable to apply the same compliance deadline that we adopted in the *User Interfaces Order* for digital apparatus and navigation devices to comply with the accessible user interfaces rules, including the requirement to provide an activation mechanism reasonably comparable to a button, key, or icon for certain accessibility features, to the requirement adopted here. Thus, consistent with the deadline in section 79.109(c) of our rules, covered manufacturers must provide a simple and easy to use mechanism for accessing the secondary audio stream for audible emergency information no later than December 20, 2016.[112] Although apparatus manufacturers were silent in the record with regard to this issue, we believe that they will need some time for the design, testing, and implementation of a simple and easy to use activation mechanism for the secondary audio stream on covered apparatus. We believe that making the deadline consistent with that imposed in the *User Interfaces Order* will provide sufficient time for apparatus manufacturers to achieve these steps. In addition, we find that requiring manufacturers of such devices to incorporate the required accessibility features at the same time will ensure that the devices are updated on a uniform timetable. Such a uniform timeframe will prevent any consumer confusion as to the capabilities of their devices.[113]

IV. Procedural Matters

A. Final Regulatory Flexibility Act

37. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''),[114] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into each of the *Further Notices of Proposed Rulemaking* (''-NPRM'') in this proceeding.[115] The Federal Communications Commission (''Commission'') sought written public comment on the proposals in the *Further Notices,* including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.[116]

1. Need for, and Objectives of, the *Second Report and Order*

38. In the *Second Report and Order,* we take additional steps under the authority of sections 202 and 203 of the CVAA [117] to make emergency information in video programming accessible to individuals who are blind or visually impaired.

39. First, the *Second Report and Order* concludes that multichannel video programming distributors (''MVPDs'') must pass through a secondary audio stream containing audible emergency information in accordance with section 79.2 of the Commission's rules [118] when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. Increasingly, Americans are utilizing a wide range of devices in addition to the television to view video programming, and a number of MVPDs now allow customers to view linear programming on second screen devices using applications or other technologies. The conclusion we make in the *Second Report and Order* ensures that individuals who are blind or visually impaired will be provided with accessible emergency information when they are watching linear programming over the MVPD's network as part of their MVPD services, regardless of whether they are viewing the programming on their television or on their tablet, smartphone, or similar device.

40. Second, the *Second Report and Order* requires manufacturers of apparatus subject to Section 79.105 of the Commission's rules [119] to provide a mechanism that is simple and easy to use for activating the secondary audio stream to access audible emergency information. Individuals who are blind or visually impaired should not have to navigate through multiple levels of menus or take other time-consuming actions to activate the secondary audio stream when they hear the aural tone signaling that emergency information is being provided visually on the screen. In emergency situations, every second counts. Thus, we believe that in order for emergency information to be made fully accessible to individuals who are blind or visually impaired in accordance with Section 203 of the CVAA, manufacturers of covered apparatus must ensure that such individuals have a simple, easy to use mechanism to activate the secondary audio stream in order to hear emergency information.

2. Summary of Significant Issues Raised By Public Comments in Response to the IRFA

41. No public comments were filed in response to the IRFA.

42. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those

[106] *User Interfaces Further Notice,* para. 11.

[107] 47 CFR 79.105(a).

[108] *User Interfaces Further Notice,* para. 11.

[109] *See* Wireless RERC *User Interfaces* Reply Comments at 10.

[110] *Id.*

[111] *Id.*

[112] 47 CFR 79.109(c).

[113] This will also reduce any consumer confusion that could arise from different deadlines relating to access to the secondary audio stream applying depending upon whether a particular device is covered by Section 203, 204, or 205 of the CVAA. We find that Wireless RERC's proposed timeframe of May 26, 2015 has been rendered moot by the passage of time.

[114] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.,* has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Public Law 104–121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (''CWAAA'').

[115] *See Further Notice,* para. 9; *User Interfaces Further Notice,* para. 17.

[116] *See* 5 U.S.C. 604.

[117] Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751 (2010); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

[118] 47 CFR 79.2.

[119] 47 CFR 79.105.

comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

3. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

43. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of *small* entities that will be affected by the rules adopted in the *Second Report and Order.*[120] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [121] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[122] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[123] Small entities that are directly affected by the rules adopted in the *Second Report and Order* include MVPDs and manufacturers of apparatus covered by Section 79.105 of the Commission's rules.

44. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline *businesses.* This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' [124] The SBA has developed a small business size standard for this category, which is: All such businesses having 1,500 or fewer employees.[125] Census data for 2007 shows that there were 31,996 establishments that operated that year.[126] Of this total, 30,178 establishments had fewer than 100 employees, and 1,818 establishments had 100 or more employees.[127] Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

45. *Cable Companies and Systems.* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[128] Industry data shows that there were 1,141 cable companies at the end of June 2012.[129] Of this total, all but 10 incumbent cable companies are small under this size standard.[130] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[131] Current Commission records show 4,945 cable systems nationwide.[132] Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more, based on the same records. Thus, under this standard, we estimate that most cable systems are small.

46. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [133] There are approximately 56.4 million incumbent cable video subscribers in the United States today.[134] Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[135] Based on available data, we find that all but 10 incumbent cable operators are small under this size standard.[136] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250

[120] 5 U.S.C. 603(b)(3).

[121] *Id.* 601(6).

[122] *Id.* 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[123] 15 U.S.C. 632.

[124] U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition) at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.* Examples of this category are: Broadband Internet service providers (*e.g.,* cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed circuit television (''CCTV'') services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (''DTH'') services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (''MMDS'').

[125] 13 CFR 121.201; 2012 NAICS code 517110.

[126] U.S. Census Bureau, 2007 Economic Census. *See* U.S. Census Bureau, American FactFinder, ''Information: Subject Series—Estab and Firm Size: Employment Size of Establishments for the United States: 2007—2007 Economic Census,'' NAICS code 517110, Table EC0751SSSZ2; available at *http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml.*

[127] *Id.*

[128] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *Implementation of Sections of the Cable Television Consumer Protection And Competition Act of 1992: Rate Regulation,* MM Docket No. 92–266, MM Docket No. 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, FCC 95–196, 60 FR 35854 (1995).

[129] NCTA, Industry Data, Number of Cable Operating Companies (June 2012), *http://www.ncta.com/Statistics.aspx* (visited Sept. 28, 2012). Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service. *See Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming,* MB Docket No. 12–203, Fifteenth Report, FCC 13–99 at para. 24 (rel. July 22, 2013) (''*15th Annual Competition Report''*).

[130] *See* SNL Kagan, ''Top Cable MSOs—12/12 Q''; available at *http://www.snl.com/InteractiveX/TopCableMSOs.aspx?period=2012Q4&sortcol=subscribersbasic&sortorder=desc.* We note that, when applied to an MVPD operator, under this size standard (*i.e.,* 400,000 or fewer subscribers) all but 14 MVPD operators would be considered small. *See* NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013). The Commission applied this size standard to MVPD operators in its implementation of the CALM Act. *See Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act,* MB Docket No. 11–93, Report and Order, FCC 11–182, 77 FR 40276, para. 37 (2011) (''*CALM Act Report and Order*'') (defining a smaller MVPD operator as one serving 400,000 or fewer subscribers nationwide, as of December 31, 2011).

[131] 47 CFR 76.901(c).

[132] The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on Aug. 28, 2013. A cable system is a physical system integrated to a principal headend.

[133] 47 U.S.C. 543(m)(2); *see* 47 CFR 76.901(f) & nn. 1–3.

[134] *See* NCTA, Industry Data, Cable Video Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013).

[135] 47 CFR 76.901(f); *see* Public Notice, FCC Announces New Subscriber Count for the Definition of Small Cable Operator, DA 01–158 (Cable Services Bureau, Jan. 24, 2001).

[136] *See* NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013).

million.[137] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

47. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, *Wired* Telecommunications Carriers,[138] which was developed for small wireline businesses. In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[139] Census data for 2007 shows 3,188 firms in this category.[140] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts.[141] Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network.[142] Each currently offer subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

48. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in *urban* and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, Wired Telecommunications Carriers,[143] which was developed for small wireline businesses. In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[144] Census data for 2007 shows 3,188 firms in this category.[145] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

49. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD *antennas* are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers.[146] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[147] Census data for 2007 shows 3,188 firms in this category.[148] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

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[137] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 47 CFR 76.901(f).

[138] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[139] 13 CFR 121.201; NAICS Code 517110.

[140] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[141] 13 CFR 121.201; NAICS code 517510 (2002).

[142] S*ee 15th Annual Competition Report,* at para. 27. As of June 2012, DIRECTV is the largest DBS operator and the second largest MVPD in the United States, serving approximately 19.9 million subscribers. DISH Network is the second largest DBS operator and the third largest MVPD, serving approximately 14.1 million subscribers. *Id.* para. 27, 110–11.

[143] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[144] 13 CFR 121.201; NAICS Code 517110.

[145] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[146] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[147] 13 CFR 121.201; NAICS Code 517110.

[148] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

50. *Open Video Services.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.[149] The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,[150] OVS falls within the *SBA* small business size standard covering cable services, which is Wired Telecommunications Carriers.[151] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[152] Census data for 2007 shows 3,188 firms in this category.[153] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition, we note that the Commission has certified some OVS operators, with some now providing service.[154] Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises.[155] The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

51. *Wireless cable systems—Broadband Radio Service and Educational Broadband Service.* Wireless cable systems use the Broadband Radio Service (BRS) [156] and Educational Broadband Service (EBS) [157] to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years.[158] The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities.[159] After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas.[160] The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid.[161] Auction 86 concluded in 2009 with the sale of 61 licenses.[162] Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

52. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired *Telecommunications* Carriers is applicable to cable-based Educational Broadcasting Services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' [163] In this category,

[149] 47 U.S.C. 571(a)(3) through (4). *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* MB Docket No. 06–189, Thirteenth Annual Report, FCC 07–206, 74 FR 11102, para. 135 (2009) (''*Thirteenth Annual Cable Competition Report*'').

[150] *See* 47 U.S.C. 573.

[151] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[152] 13 CFR 121.201; NAICS Code 517110.

[153] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[154] A list of OVS certifications may be found at *http://www.fcc.gov/mb/ovs/csovscer.html.*

[155] *See Thirteenth Annual Cable Competition Report,* para. 135. BSPs are newer businesses that are building state-of-the-art, facilities-based networks to provide video, voice, and data services over a single network.

[156] BRS was previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS). *See Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* MM Docket No. 94–131, PP Docket No. 93–253, Report and Order, FCC 95–230, 60 FR 36524, para. 7 (1995).

[157] EBS was previously referred to as the Instructional Television Fixed Service (ITFS). *See id.*

[158] 47 CFR 21.961(b)(1).

[159] 47 U.S.C. 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard of 1,500 or fewer employees.

[160] Auction of Broadband Radio Service (BRS) Licenses, Scheduled for October 27, 2009, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86, Public Notice, DA 09–1376 (WTB rel. Jun. 26, 2009).

[161] *Id.* at 8296.

[162] *Auction of Broadband Radio Service Licenses Closes, Winning Bidders Announced for Auction 86, Down Payments Due November 23, 2009, Final Payments Due December 8, 2009, Ten-Day Petition to Deny Period,* Public Notice, DA 09–2378 (WTB rel. Nov. 6, 2009).

[163] U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition) at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.* Examples of this category are: broadband Internet service providers (*e.g.,* cable, DSL); local telephone carriers (wired); cable

Continued

the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[164] Census data for 2007 shows 3,188 firms in this category.[165] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition to Census data, the Commission's internal records indicate that as of September 2012, there are 2,241 active EBS licenses.[166] The Commission estimates that of these 2,241 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.[167]

53. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small *business* size standard specifically for incumbent local exchange services. ILECs are included in the SBA's economic census category, Wired Telecommunications Carriers.[168] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[169] Census data for 2007 shows 3,188 firms in this category.[170] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

54. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' [171] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope.[172] We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

55. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. These entities are included in the *SBA's* economic census category, Wired Telecommunications Carriers.[173] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[174] Census data for 2007 shows 3,188 firms in this category.[175] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

56. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments *primarily* engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' [176] The SBA has developed a small business size standard for this category, which is: all such businesses having 750 or fewer employees.[177] Census data for 2007 shows that there were 939 establishments that operated for part or all of the entire year.[178] Of those, 912 operated with fewer than 500 employees, and 27 operated with 500 or

television distribution services; long-distance telephone carriers (wired); closed circuit television (''CCTV'') services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (''DTH'') services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (''MMDS'').

[164] 13 CFR 121.201; NAICS Code 517110.

[165] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[166] *http://wireless2.fcc.gov/UlsApp/UlsSearch/results.jsp.*

[167] The term ''small entity'' within SBREFA applies to small organizations (non-profits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. 601(4) through (6).

[168] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[169] 13 CFR 121.201; NAICS Code 517110.

[170] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[171] 15 U.S.C. 632.

[172] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small-business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. *See* 13 CFR 121.102(b).

[173] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[174] 13 CFR 121.201; NAICS Code 517110.

[175] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[176] U.S. Census Bureau, 2012 NAICS Definitions, ''334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[177] 13 CFR 121.201; 2012 NAICS code 334220.

[178] U.S. Census Bureau, 2007 Economic Census. *See* U.S. Census Bureau, American FactFinder, ''Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007—2007 Economic Census,'' NAICS code 334220, Table EC0731SG3; available at *http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml.*

more employees.[179] Therefore, under this size standard, the majority of such establishments can be considered small.

57. *Audio and Video Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing electronic audio and video *equipment* for home entertainment, motor vehicles, and public address and musical instrument amplification. Examples of products made by these establishments are video cassette recorders, televisions, stereo equipment, speaker systems, household-type video cameras, jukeboxes, and amplifiers for musical instruments and public address systems.'' [180] The SBA has developed a small business size standard for this category, which is: all such businesses having 750 or fewer employees.[181] Census data for 2007 shows that there were 492 establishments in this category operated for part or all of the entire year.[182] Of those, 488 operated with fewer than 500 employees, and four operated with 500 or more employees.[183] Therefore, under this size standard, the majority of such establishments can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

58. The *Second Report and Order* (i) concludes that MVPDs must pass through a secondary audio stream *containing* audible emergency information in accordance with Section 79.2 of the Commission's rules when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services, and (ii) adopts new requirements applicable to manufacturers of apparatus covered by Section 79.105 of the Commission's rules pursuant to the authority in Section 203 of the CVAA.

59. With respect to the first issue, the *Second Report and Order* does not adopt a new regulatory regime, but rather finds that the existing emergency information requirements in Section 79.2 of the Commission's rules *apply* when an MVPD provides linear programming for viewing on mobile and other devices over the MVPD's network. Accordingly, there are no new reporting or recordkeeping requirements. There will, however, be compliance requirements for MPVDs, including small MVPDs. Specifically, MVPDs must pass through a secondary audio stream containing audible emergency information when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. As part of this obligation, MVPDs must ensure that any application or plug-in that they provide to consumers to access such programming is capable of passing through audible emergency information on a secondary audio stream.

60. With respect to the second issue, the *Second Report and Order* adopts new compliance requirements for manufacturers of covered apparatus, including small entities. Specifically, manufacturers of apparatus subject to Section 79.105 of the Commission's rules must provide a mechanism that is *simple* and easy to use for activating the secondary audio stream to access audible emergency information on covered apparatus. The provisions for achievability, purpose-based waiver, and exemptions in Section 79.105 of the Commission's rules apply to the requirement that covered apparatus provide a simple and easy to use activation mechanism for the secondary audio stream.[184]

61. No commenter provided specific information about the costs and administrative burdens associated with the rules adopted in the *Second Report and Order.* However, we note that the rule we adopt pursuant to Section 203 of the CVAA—which requires manufacturers of apparatus subject to Section 79.105 of the Commission's rules to provide a mechanism that is simple and easy to use for activating the secondary audio stream to access audible emergency information—affords covered entities flexibility in how they implement this requirement.

5. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

62. The RFA requires an agency to describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.[185]

63. The rules adopted in the *Second Report and Order* may have an economic impact in some cases, and that impact may affect small entities. Although the Commission has considered alternatives where possible, as directed by the RFA, to minimize economic impact on small entities, we emphasize that our action is governed by the congressional mandate contained in Sections 202 and 203 of the CVAA.

64. In crafting its new requirements, the Commission provided reasonable timeframes within which covered entities may come into compliance, as requested in the record.

65. In addition, with regard to the accessibility requirements adopted pursuant to Section 203 of the CVAA, in certain instances, the Commission may grant exemptions to the rules where a petitioner has shown that compliance is not achievable (*i.e.,* cannot be accomplished with reasonable effort or expense).[186] We note that two of the four statutory factors that the Commission will consider in determining achievability are particularly relevant to small entities: The nature and cost of the steps needed to meet the requirements, and the technical and economic impact on the entity's operations. In addition, apparatus designed to receive and play back video programming transmitted simultaneously with sound must comply with Section 203 requirements only to the extent they are ''technically feasible.'' [187] Thus, covered manufactures, including small entities, may raise technical infeasibility as a defense when faced with a complaint alleging a violation of the apparatus requirements adopted herein, or to file a request for a ruling under Section 1.41 of the Commission's rules as to technical feasibility before manufacturing or importing the product.[188] As an additional means of reducing the costs of compliance, apparatus manufacturers may use alternate means of compliance with the rules adopted pursuant to Section

[179] *Id.*

[180] U.S. Census Bureau, 2012 NAICS Definitions, ''334310 Audio and Video Equipment Manufacturing'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[181] 13 CFR 121.201; 2012 NAICS code 334310.

[182] U.S. Census Bureau, 2007 Economic Census. *See* U.S. Census Bureau, American FactFinder, ''Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2007—2007 Economic Census,'' NAICS code 334310, Table EC0731SG3; available at *http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml.*

[183] *Id.*

[184] *See* 47 CFR 79.105(b)(1) through (2) (exempt apparatus), 79.105(b)(3) (achievability), 79.105(b)(4) (purpose-based waivers).

[185] 5 U.S.C. 604(a)(6).

[186] *See* 47 CFR 79.105(b)(3).

[187] *See* 47 U.S.C. 303(u).

[188] *See First Report and Order*, para. 66.

203.[189] Under this approach, the Commission will permit an entity that seeks to use an alternate means to comply with the apparatus requirements to file a request pursuant to Section 1.41 of the Commission's rules for a determination that the proposed alternative satisfies the statutory requirements. The Commission will consider such requests on a case-by-case basis. Further, the rule also allows for certain purpose-based waivers and exemptions.[190] These processes will allow the Commission to address the impact of the rules on individual entities, including smaller entities, on a case-by-case basis and to modify the application of the rules to accommodate individual circumstances, which can reduce the costs of compliance for these entities.

66. Overall, we believe we have appropriately considered both the interests of individuals with disabilities and the *interests* of the entities who will be subject to the rules, including those that are smaller entities. The requirements adopted by the Commission today help ensure that the critical details of an emergency are made accessible to individuals who are blind or visually impaired, thus significantly benefiting consumers and serving the stated public interest goal of the CVAA.

6. Report to Congress

67. The Commission will send a copy of the *Second Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[191] In addition, the Commission will send a copy of the *Second Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Second Report Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.[192]

B. Paperwork Reduction Act

68. The *Second Report and Order* does not contain any new or modified information collection requirements subject to *the* Paperwork Reduction Act of 1995 (PRA).[193] In addition, therefore, it does not contain any information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.[194]

C. Congressional Review Act

69. The Commission will send a copy of the *Second Report and Order* in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.[195]

D. Additional Information

70. For *additional* information on this proceeding, contact Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

71. Accordingly, *it is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 330(b), 613, and 617, this *Second Report and Order is adopted,* effective August 10, 2015.

72. *It is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 330(b), 613, and 617, the Commission's rules *are hereby amended* as set forth herein.

73. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

74. *It is further ordered* that the Commission *shall send* a copy of this *Second Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 79

Cable television operators, Communications equipment, Multichannel video programming distributors (MVPDs), Satellite television service providers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 79 as follows:

PART 79—ACCESSIBILITY OF VIDEO PROGRAMMING

■ 1. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

■ 2. Amend § 79.2 by revising paragraph (b)(2)(ii) and adding paragraph (b)(6) to read as follows:

§ 79.2 Accessibility of programming providing emergency information.

* * * * *

(b) * * *

(2) * * *

(ii) Emergency information that is provided visually during programming that is neither a regularly scheduled newscast, nor a newscast that interrupts regular programming, must be accompanied with an aural tone, and beginning May 26, 2015 except as provided in paragraph (b)(6) of this section, must be made accessible to individuals who are blind or visually impaired through the use of a secondary audio stream to provide the emergency information aurally. Emergency information provided aurally on the secondary audio stream must be preceded by an aural tone and must be conveyed in full at least twice. Emergency information provided through use of text-to-speech (''TTS'') technologies must be intelligible and must use the correct pronunciation of relevant information to allow consumers to learn about and respond to the emergency, including, but not limited to, the names of shelters, school districts, streets, districts, and proper names noted in the visual information. The video programming distributor or video programming provider that creates the visual emergency information content and adds it to the programming stream is responsible for providing an aural representation of the information on a secondary audio stream, accompanied by an aural tone. Video programming distributors are responsible for ensuring that the aural representation of the emergency information (including the

[189] *See id.,* para. 75.

[190] *See* 47 CFR 79.105(b)(1) through (2), 79.105(b)(4).

[191] *See* 5 U.S.C. 801(a)(1)(A).

[192] *See id.* 604(b).

[193] The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

[194] The Small Business Paperwork Relief Act of 2002 (SBPRA), Public Law 107–198, 116 Stat 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); *see* 44 U.S.C. 3506(c)(4).

[195] *See* 5 U.S.C. 801(a)(1)(A).

accompanying aural tone) gets passed through to consumers.

* * * * *

(6) Beginning July 10, 2017, multichannel video programming distributors must ensure that any application or plug-in that they provide to consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their multichannel video programming distributor services is capable of passing through to consumers an aural representation of the emergency information (including the accompanying aural tone) on a secondary audio stream.

* * * * *

■ 3. Amend § 79.105 by adding paragraph (d) and a note to paragraph (d) to read as follows:

§ 79.105 Video description and emergency information accessibility requirements for all apparatus.

* * * * *

(d) Beginning December 20, 2016, all apparatus subject to this section must provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information.

Note To Paragraph (d): This paragraph places no restrictions on the importing, shipping, or sale of navigation devices that were manufactured before December 20, 2016.

[FR Doc. 2015–16324 Filed 7–9–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412–2517–02]

RIN 0648–XE028

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for Gulf of Mexico Greater Amberjack

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the Gulf of Mexico (Gulf) reef fish fishery for the 2015 fishing year through this temporary rule. NMFS projects commercial landings for greater amberjack, will reach the commercial ACT (commercial quota) by July 19, 2015. Therefore, NMFS closes the commercial sector for greater amberjack in the Gulf on July 19, 2015, and it will remain closed until the start of the next fishing season on January 1, 2016. This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, July 19, 2015, until 12:01 a.m., local time, January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *rich.malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The commercial annual catch limit (ACL) for Gulf greater amberjack is 481,000 lb (218,178 kg), as specified in 50 CFR 622.41(a)(1), and the commercial ACT (equivalent to the commercial quota) is 409,000 lb (185,519 kg), as specified in 50 CFR 622.39(a)(1)(v).

Under 50 CFR 622.41(a)(1)(i), NMFS is required to close the commercial sector for greater amberjack when the commercial ACT (commercial quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the commercial ACT (commercial quota) will be reached by July 19, 2015. Accordingly, the commercial sector for Gulf greater amberjack is closed effective 12:01 a.m., local time, July 19, 2015, until 12:01 a.m., local time, January 1, 2016.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish with greater amberjack on board must have landed, bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, July 19, 2015. During the commercial closure, the bag and possession limits specified in 50 CFR 622.38(b)(1), apply to all harvest or possession of greater amberjack in or from the Gulf exclusive economic zone (EEZ). However, from June 1 through July 31 each year, the recreational sector for greater amberjack is also closed, as specified in 50 CFR 622.34(c), and during this recreational closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero. During the commercial closure, the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 19, 2015, and were held in cold storage by a dealer or processor. The commercial sector for greater amberjack will reopen on January 1, 2016, the beginning of the 2016 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the Gulf greater amberjack component of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect greater amberjack. The capacity of the commercial sector allows for rapid harvest of the commercial ACT (commercial quota), and prior notice and opportunity for public comment would require time and would potentially result in harvest exceeding the commercial ACT (commercial quota) and commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the

30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 6, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–16863 Filed 7–7–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150316270–5270–01]

RIN 0648–XE020

Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions #7 Through #13

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

ACTION: Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces seven inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from the U.S./Canada border to the U.S./Mexico border.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through July 27, 2015.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2015–0001, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0001,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–6349.

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

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2015 annual management measures for ocean salmon fisheries (80 FR 25611, May 5, 2015), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, beginning May 1, 2015, and 2016 salmon seasons opening earlier than May 1, 2016. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: Oregon Department of Fish and Wildlife (ODFW) and Washington Department of Fish and Wildlife (WDFW).

Management of the salmon fisheries is generally divided into two geographic areas: North of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affect fisheries north and south of Cape Falcon. Within the south of Cape Falcon area, the Klamath Management Zone (KMZ) extends from Humbug Mountain, OR, to Humboldt South Jetty, CA, and is divided at the Oregon/California border into the Oregon KMZ to the north and California KMZ to the south. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #7

Description of action: Inseason action #7 reopened the commercial salmon fishery from Leadbetter Point, WA, to Cape Falcon, OR, on June 5, 2015; Friday through Tuesday, with a landing and possession limit of 40 Chinook salmon per vessel per open period. Inseason action #7 superseded inseason action #6 (80 FR 36725, June 26, 2015), which temporarily closed this fishery on May 29, 2015.

Effective dates: Inseason action #7 took effect on June 5, 2015, and remained in effect until superseded by inseason action #8 on June 19, 2015.

Reason and authorization for the action: After consideration of Chinook salmon landings to date and fishery effort, the Regional Administrator (RA) determined that sufficient quota remained to reopen this fishery with a 5-day open period and a landing and possession limit of 40 Chinook salmon per vessel per opening, to avoid exceeding the quota. This action was taken to allow access to available Chinook salmon quota, without exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #7 occurred on June 4, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #8

Description of action: Inseason action #8 adjusted the landing and possession limit in the commercial salmon fishery from Leadbetter Point, WA, to Cape Falcon, OR, from 40 Chinook salmon per vessel per open period (see inseason action #7) to 80 Chinook salmon per vessel per open period. Inseason action #8 superseded inseason action #7.

Effective dates: Inseason action #8 took effect on June 19, 2015, and remained in effect until superseded by inseason action #12 on June 26, 2015.

Reason and authorization for the action: The states provided information that poor weather conditions had restricted fishing opportunities in the affected area. After consideration of Chinook salmon landings to date and fishery effort, the RA determined that sufficient quota remained to increase the landing and possession limit to allow access to the remaining quota without exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #8 occurred on June 18, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #9

Description of action: Inseason action #9 extended retention of Pacific halibut caught incidental to commercial salmon fishing (U.S./Canada border to U.S./Mexico border) beyond the June 30, 2015 deadline announced preseason. Pacific halibut retention will continue without any changes to landing and possession requirements until further notice.

Effective dates: Inseason action #9 took effect on July 1, 2015, and remains in effect until superseded by inseason action.

Reason and authorization for the action: The International Pacific Halibut Commission (IPHC) establishes an annual allocation of Pacific halibut that can be retained when caught incidental to commercial salmon fishing by fishers who possess the necessary IPHC license. The annual ocean salmon management measures (80 FR 25611, May 5, 2015) authorized halibut retention only during April, May, and June of the 2015 troll seasons and after June 30 in 2015 if quota remains. The RA considered Pacific halibut and Chinook salmon landings to date, and fishery effort, and determined that sufficient halibut allocation remained to allow retention to continue for the foreseeable future.

Consultation date and participants: Consultation on inseason action #9 occurred on June 25, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #10

Description of action: Inseason action #10 modified the commercial salmon fishery from the U.S./Canada border to Cape Alava, WA. Inseason action #10 set a 2-day opening for this fishery, June 26–27, 2015, with a landing and possession limit of 12 Chinook salmon per vessel for the opening. This superseded the 5-day opening and 20 Chinook landing and possession limit established by inseason action #4 (80 FR 36725, June 26, 2015).

Effective dates: Inseason action #10 took effect on June 26, 2015, and remained in effect through the end of the spring salmon season, June 30, 2015.

Reason and authorization for the action: After consideration of Chinook salmon landings to date and fishery effort, the RA determined that insufficient quota remained to continue this fishery under the schedule and landing limits set by inseason action #4. Therefore, the fishery was restricted to a 2-day opening with a reduced landing and possession limit. This action was taken to allow access to available Chinook salmon quota, without exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #10 occurred on June 25, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #11

Description of action: Inseason action #11 closed the commercial salmon fishery from Queets River to Leadbetter point at 11:59 p.m., June 25, 2015.

Effective dates: Inseason action #11 took effect on June 25, 2015, and remained in effect through the end of the spring salmon season, June 30, 2015.

Reason and authorization for the action: After consideration of Chinook salmon landings to date and fishery effort, the RA determined that insufficient quota remained to continue this fishery under the schedule set preseason and that the fishery was likely to exceed the quota if allowed to remain open. This action was taken to avoid exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #11 occurred on June 25, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #12

Description of action: Inseason action #12 closed the commercial salmon fishery from Leadbetter Point, WA, to Cape Falcon, OR, by cancelling the 5-day opening scheduled to begin Friday, June 26, 2015, superseding inseason action #8.

Effective dates: Inseason action #12 took effect on June 26, 2015, and remained in effect through the end of the spring salmon season, June 30, 2015.

Reason and authorization for the action: After consideration of Chinook salmon landings to date and fishery effort, the RA determined that insufficient quota remained to continue this fishery under the schedule and landing limits set by inseason action #8 and cancelled the opening that was scheduled to begin June 26, 2015. This action was taken to avoid exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #12 occurred on June 25, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

Inseason Action #13

Description of action: Inseason action #13 modified the commercial salmon fishery from Humbug Mountain, OR, to the OR/CA border (Oregon KMZ) in June and July. Inseason action #13 closed the fishery at 11:59 p.m., June 26, 2015; reopened the fishery July 1–2, 2015 with a landing and possession limit of 15 Chinook salmon per vessel per day; closed the fishery July 3–4, 2015; and reopened the fishery daily, beginning July 5, 2015 with a landing and possession limit of 25 Chinook salmon per vessel per day.

Effective dates: Inseason action #13 took effect on June 26, 2015, and remains in effect until superseded by inseason action or the end of the July fishery, on July 31, 2015.

Reason and authorization for the action: The commercial salmon fishery in the Oregon KMZ operates under monthly quotas for Chinook salmon in June, July, and August. After consideration of Chinook salmon landings to date and fishery effort, the RA determined that insufficient quota remained to continue fishing in June and that modifying the July opening would allow access to available Chinook salmon quota, without exceeding the quota that was set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #13 occurred on June 25, 2015. Participants in this consultation were staff from NMFS, Council, WDFW, and ODFW.

All other restrictions and regulations remain in effect as announced for the 2015 ocean salmon fisheries and 2016 fisheries opening prior to May 1, 2016 (80 FR 25611, May 5, 2015).

The RA determined that the best available information indicated that Chinook salmon and Pacific halibut catch to date and fishery effort supported the above inseason actions recommended by the states of Washington and Oregon. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the action was effective, by telephone hotline numbers 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (80 FR 25611, May 5, 2015), the West Coast Salmon Fishery Management Plan (Salmon FMP), and regulations implementing the Salmon FMP, 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon catch and effort assessments and projections were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, ensuring that conservation objectives and ESA consultation standards are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon FMP and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: July 6, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–16829 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 132
Friday, July 10, 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 ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM15–19–000]

Petition for a Rulemaking of the Liquids Shippers Group, Airlines for America, and the National Propane Gas Association

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of technical conference.

SUMMARY: In this notice, the Federal Energy Regulatory Commission (Commission) plans to hold a technical conference on July 30, 2015, to discuss issues raised by the petition for rulemaking. The petition for rulemaking is requesting that the Commission issue a Notice of Proposed Rulemaking (NOPR) requiring changes to the FERC Form No. 6 (Annual Report of Oil Pipeline Companies), Page 700.

DATES: The technical conference will be held on July 30, 2015.

FOR FURTHER INFORMATION CONTACT:

Technical Contact

Adrianne Cook, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, *Adrianne.Cook@ferc.gov*, (202) 502–8849.

Legal Contacts

David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, *David.Faerberg@ferc.gov*, (202) 502–8275.

Rekha Chandrasekher, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, *Rekha.Chandrasekher@ferc.gov*, (202) 502–8865.

SUPPLEMENTARY INFORMATION:

Notice of Technical Conference

On April 20, 2015, the Liquids Shippers Group, Airlines for America and the National Propane Gas Association (Joint Petitioners) filed a petition for rulemaking requesting that the Commission issue a Notice of Proposed Rulemaking (NOPR) requiring changes to the FERC Form No. 6 (Annual Report of Oil Pipeline Companies), Page 700.

The Joint Petitioners request that the Commission issue a NOPR in which it proposes to revise Form No. 6, Page 700 by (1) requiring a pipeline that (i) files a single Form No. 6 report for both crude oil and petroleum product systems, and/or (ii) has multiple established and recognized segments which correspond to how the pipeline's rates are established or designed, to file a separate Page 700 for each individual system or segment rather than reporting aggregated cost and revenue data on a single Page 700; and (2) revising the Page 700 instructions to require crude oil and petroleum product pipelines to make their workpapers available to shippers and interested persons upon request, not just to the Commission and its Staff.

Take notice that the Commission plans to hold a technical conference on July 30, 2015, to discuss issues raised by the petition for rulemaking.

The Commission will issue a subsequent notice organizing the conference. The Commission contemplates utilizing panels to work through the issues presented. Those interested in serving on panels are asked to submit a short notice of intent in the instant docket, along with the specific issues they plan to address on or before July 10, 2015. Due to time constraints, we may not be able to accommodate all those interested in speaking.

Dated: June 30, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16880 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–77

[FMR Case 2015–102–3; Docket No. 2015–0007; Sequence No. 1]

RIN 3090–AJ60

Federal Management Regulation; Art-in-Architecture

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Management Regulation (FMR) by revising its coverage of Art-in-Architecture. This proposed rule provides clarification to the policies that support the efforts to collect, manage, fund and commission fine art in Federal buildings.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before September 8, 2015 to be considered in the formation of the final rule.

ADDRESSESS: Submit comments in response to FMR Case 2015–102–3 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking Portal by searching for ''FMR Case 2015–102–3.'' Select the link ''Comment Now'' that corresponds with ''FMR Case 2015–102–3.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FMR Case 2015–102–3 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 FMR Case 2015–102–3, 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: Ms. Aluanda Drain, Office of Government-wide Policy, Office of Asset and Transportation Management (MA), at

202–501–1624, or by email at *aluanda.drain@gsa.gov.* For information pertaining to status or publication schedules, contact the Regulatory Secretariat, at 202–501–4755. Please cite FMR Case 2015–102–3.

SUPPLEMENTARY INFORMATION:

A. Background

As part of its regular cycle to review and update its real property policies, GSA is proposing to revise its policy on Art-in-Architecture that is located in FMR part 102–77 (41 CFR part 102–77). This part was last revised on November 8, 2005 at 70 FR 67847.

Proposed Changes

The proposed changes to FMR part 102–77 reflect an internal as well as an interagency collaborative effort. Major proposed changes include the following:

Section 102–77.10 recommends the practice of commissioning artwork and also requires that the art be the work of living American artists.

Section 102–77.20 proposes that to the maximum extent possible, agencies should collaborate with representatives of the client agency and with others who are tied to the project to commission the nation's most talented artists.

Section 102–77.25 calls for agencies to implement the Art-in-Architecture policies in a manner that receives national and local visibility to facilitate participation by a large and diverse group of American artists.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.S.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action, and therefore was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

While these revisions are substantive, this proposed rule would not 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.* This proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553 (a)(2) because it applies to agency management or personnel.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed by 5 U.S.C. 801 since it relates to agency management and personnel.

List of Subjects in 41 CFR Part 102–77

Arts and Crafts.

Dated: May 7, 2015.

Giancarlo Brizzi,

Acting Associate Administrator.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–77 as follows:

PART 102–77—ART-IN-ARCHITECTURE

■ 1. The authority continues to read as follows:

Authority: 40 U.S.C. 121 and 3306.

■ 2. Revise § 102–77.10 to read as follows:

§ 102–77.10 What basic Art-in-Architecture policy governs Federal agencies?

Federal agencies must incorporate fine arts as an integral part of the total building concept when designing new Federal buildings, and when making substantial repairs and alterations to existing Federal buildings, as appropriate. The commissioned artworks—including painting, sculpture and various other media—must reflect the national cultural heritage and be the work of living American artists (citizens or permanent residents of the United States).

■ 3. Revise § 102–77.20 to read as follows:

§ 102–77.20 With whom should Federal agencies collaborate when commissioning and selecting art for Federal buildings?

To the maximum extent practicable, Federal agencies should collaborate with representatives of the client agency and the local community, the designer, and arts professionals to commission the nation's most talented artists to create significant civic-scaled artwork of outstanding quality and value. Federal agencies should work collaboratively with the artist, community, and art and design professionals to produce works of art that reflect the cultural, intellectual, and historic interests of the nation and the community. Federal agencies should commission artwork that is diverse in style and media.

■ 4. Revise § 102–77.25 to read as follows:

§ 102–77.25 Do Federal agencies have responsibilities to provide national visibility for Art-in-Architecture?

Yes, Federal agencies should implement these Art-in-Architecture policies in a manner that receives appropriate national and local visibility to facilitate participation by a large and diverse group of American artists representing a wide variety of types of artwork.

[FR Doc. 2015–16902 Filed 7–9–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

[NIOSH Docket 094]

World Trade Center Health Program; Petition 008—Autoimmune Diseases; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petition for addition of a health condition.

SUMMARY: On May 11, 2015, the Administrator of the World Trade Center (WTC) Health Program received a petition (Petition 008) to add autoimmune diseases to the List of WTC-Related Health Conditions (List). Upon reviewing the information provided by the petitioner, the Administrator has determined that Petition 008 is not substantially different from Petition 007, which also requested the addition of autoimmune diseases. The Administrator recently published a response to Petition 007 in the **Federal Register** and has determined that Petition 008 does not provide additional evidence of a causal relationship between 9/11 exposures and autoimmune diseases. Accordingly, the Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a

determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.1. Within 60 calendar days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) and 42 CFR 88.17: (i) Request a recommendation of the STAC; (ii) publish a proposed rule in the **Federal Register** to add such health condition; (iii) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (iv) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (i) through (iii) above. However, in accordance with 42 CFR 88.17(a)(4), the Administrator is required to consider a new petition for a previously-evaluated health condition determined not to qualify for addition to the List only if the new petition presents a new medical basis—evidence not previously reviewed by the Administrator—for the association between 9/11 exposures and the condition to be added.

B. Petition 008

On May 11, 2015, the Administrator received a petition to add ''autoimmune disease—encephalitis of the brain'' to the List (Petition 008).[2] This is the second petition to the Administrator requesting the addition of autoimmune diseases to the List; the first autoimmune disease petition, Petition 007, was denied due to insufficient evidence as described in a **Federal Register** notice published on June 8, 2015 (80 FR 32333). Petition 008, which is addressed in this notice, was submitted by a WTC Health Program member who responded to the September 11, 2001, terrorist attacks in New York City. The petitioner indicated that she has been diagnosed with encephalitis as well as two WTC-related health conditions. The petition presented as evidence several newspaper articles referencing a study recently published in the Journal of Arthritis and Rheumatology by Webber *et al.* [2015],[3] which was designed to test the hypothesis that acute and chronic 9/11 work-related exposures were associated with the risk of certain new-onset systemic autoimmune diseases.

Although Petition 008 specifically requested the addition of ''autoimmune disease—encephalitis of the brain,'' the Administrator determined that the scope of the petition properly includes only the autoimmune diseases identified in Webber *et al.,* cited as evidence in both Petition 007 and Petition 008.[4] Encephalitis is not among the autoimmune diseases studied by Webber *et al.* No other evidence was provided in Petition 008 to support the addition of encephalitis to the List; therefore, encephalitis is not addressed in this action.

C. Administrator's Determination on Petition 008

The Administrator has established a methodology for evaluating whether to add non-cancer health conditions to the List of WTC-Related Health Conditions, published online in the Policies and Procedures section of the WTC Health Program Web site.[5] However, the Administrator has determined that the methodology is not triggered in this case because Petition 008 requested the addition of a health condition that was previously reviewed by the Program, and presented no new evidence of a causal association between 9/11 exposures and autoimmune diseases. In a response to Petition 007, which also requested the addition of autoimmune diseases, published in the **Federal Register** on June 8, 2015 (80 FR 32333), the Administrator reviewed the findings presented in the Webber study and determined that insufficient evidence exists to take any of the following actions: Propose the addition of autoimmune diseases to the List (pursuant to PHS Act, section 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)); publish a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, section 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)); or request a recommendation from the STAC (pursuant to PHS Act, section 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)). Because the Administrator recently evaluated the Webber study, presented as evidence for the addition of autoimmune conditions in Petition 007, there is no need to reevaluate the same evidence again in response to the request to add autoimmune diseases in Petition 008, which also presented the Webber study as evidence of a causal association between 9/11 exposures and autoimmune diseases.

Accordingly, with regard to Petition 008, the Administrator has determined that insufficient evidence exists to take further action, including either proposing the addition of autoimmune

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] See Petition 008. WTC Health Program: Petitions Received. *http://www.cdc.gov/wtc/received.html.*

[3] Webber MP, Moir W, Zeig-Owens R, Glaser MS, Jaber N, Hall C, Berman J, Qayyum B, Loupasakis K, Kelly K, and Prezant DJ [20015]. Nested case-control study of selected systemic autoimmune diseases in World Trade Center rescue/recovery workers. Journal of Arthritis & Rheumatology 67(5):1369–1376.

[4] This determination is consistent with the Administrator's reasoning in the Petition 007 finding of insufficient evidence. 80 FR 32333, June 8, 2015.

[5] ''Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,'' John Howard MD, Administrator of the WTC Health Program, October 21, 2014. *http://www.cdc.gov/wtc/pdfs/WTCHP_PP_Adding_NonCancers_21_Oct_2014.pdf.*

diseases to the List (pursuant to PHS Act, section 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, section 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)). The Administrator has also determined that requesting a recommendation from the STAC (pursuant to PHS Act, section 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)) is unwarranted.

For the reasons discussed above, the request made in Petition 008 to add autoimmune diseases to the List of WTC-Related Health Conditions is denied.

The Administrator is aware that another study of autoimmune diseases among WTC Health Program members is being conducted by the WTC Health Registry; however, results from this study are not yet available in the scientific literature. The Administrator will monitor the scientific literature for publication of the results of this study and any other studies that address autoimmune diseases among 9/11-exposed populations.

Dated: July 1, 2015.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2015–16942 Filed 7–9–15; 8:45 am]

BILLING CODE 4163–18–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 12–107; FCC 15–56]

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comments on issues related to making emergency information audibly accessible to individuals who are blind or visually impaired. Specifically, this document seeks comment on: How to prioritize aural emergency information on the secondary audio stream; whether to continue to require school closing information to be included aurally on the secondary audio stream; and whether to require MVPDs to ensure that the devices and applications they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream.

DATES: Comments are due on or before August 10, 2015; reply comments are due on or before September 8, 2015.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–107, by any of the following methods:

- *Federal Communications Commission (FCC) Electronic Comment Filing System (ECFS) Web site*: *http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- *Mail*: U.S. Postal Service first-class, Express, and Priority mail must be addressed to the FCC Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- *Hand or Messenger Delivery*: All hand-delivered or messenger-delivered paper filings for the FCC Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554.
- *People with Disabilities*: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530; or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the section IV. ''Procedural Matters'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Evan Baranoff, *Evan.Baranoff@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking* (*Second Further Notice*), FCC 15–56, adopted on May 21, 2015, and released on May 28, 2015. For background, see the summary of the *Second Report and Order* (*Second Report and Order*) accompanying the *Second Further Notice* published in this issue of the **Federal Register**. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web site at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) Web site at *http://fjallfoss.fcc.gov/ecfs2/*. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC, 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

I. Introduction

1. In this *Second Further Notice of Proposed Rulemaking (''Second Further Notice''),* we seek comment on three issues: (i) whether we should adopt rules regarding how covered entities should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time; (ii) whether we should reconsider the Commission's requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream; and (iii) whether we should require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services.

II. Discussion

A. Prioritization of Emergency Information on the Secondary Audio Stream

2. We seek comment on how video programming providers and video programming distributors should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time.

3. Section 79.2(b)(2)(ii) of the Commission's rules requires that emergency information provided visually during programming that is neither a regularly scheduled newscast, nor a newscast that interrupts regular programming, must be made accessible to individuals who are blind or visually impaired through the use of a secondary audio stream to provide such information aurally.[1] In the *First Report and Order,* the Commission specified that it would not require a verbatim aural translation of textual emergency information, but that the information presented aurally must accurately and effectively communicate to consumers who are blind or visually impaired the critical details about a current emergency and how to respond to it to the same extent that this information is conveyed textually.[2] In addition, the Commission concluded that if visual but non-textual emergency information is shown during non-newscast programming, the aural description of this information must accurately and effectively convey the critical details regarding the emergency and how to respond to the emergency.[3]

4. In its recently-filed petition for temporary waiver of the emergency information rules, the National Association of Broadcasters (''NAB'') indicated that ''maps and other graphics almost always share the screen with other crawls'' and, thus, broadcasters may encounter an issue with how to prioritize these sources of emergency information on the secondary audio stream to ''ensur[e] that the most critical audible crawl reaches the public.'' [4] We seek comment on this issue. To what extent do broadcasters show more than one crawl or a crawl and a graphic conveying visual emergency information at the same time? In this scenario, do the crawls and graphics being shown simultaneously typically convey information about the same emergency situation?

5. Currently, our rule requires that the critical details about an emergency and how to respond to it must be conveyed aurally on the secondary stream to the same extent that this information is conveyed visually. If more than one crawl or a crawl and a graphic are shown on-screen at the same time, how can covered entities ensure that all of the critical details about the emergency and how to respond are conveyed aurally? Should we adopt rules that provide guidance to covered entities on how to prioritize emergency information conveyed aurally on the secondary audio stream when graphics or multiple crawls are used? For example, should we indicate that certain categories of emergency information should be prioritized based on the severity and proximity of the emergency and the potential impact on life, health, safety, and property? If multiple critical details about an emergency are broadcast simultaneously, should we prioritize them with respect to the requirement to provide audio information about their content (*e.g.,* if a graphic or one crawl is providing information about areas affected by an emergency while another crawl is providing information about evacuation orders or shelter-in-place instructions), and if so, how? Or are these fact-specific judgements better left for broadcasters to make on a case-by-case basis?

6. Given the time-sensitive nature of emergency information, as well as quick-changing developments that may occur during the course of an emergency situation, should we require that *only* the highest priority emergency information needs to be conveyed when there are multiple sources of emergency information being shown on-screen at the same time? Or should any prioritization rules assume that all emergency information shown simultaneously must be conveyed aurally and, therefore, require that the highest priority emergency information should be conveyed before any lesser priority emergency information on the secondary audio stream? Should we rely on the good faith judgment of the broadcaster to determine what information qualifies as the highest priority? We seek comment on any other potential solutions or issues related to the prioritization of emergency information on the secondary audio stream, including how determinations of what is a higher or lower priority should be made.

B. Inclusion of School Closing Information on the Secondary Audio Stream

7. We also seek comment on whether the Commission should reconsider its requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream.

8. ''Emergency information'' is currently defined in the Commission's rules as ''[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.,* critical details regarding the emergency and how to respond to the emergency,'' and examples of the types of emergencies covered include ''tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.'' [5] In the *First Report and Order,* the Commission declined to revise this definition of emergency information.[6] In particular, the Commission declined to adopt NAB's recommendation to delete ''school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather'' from the examples of emergency information, finding that it would be inappropriate ''to narrow the definition in the interest of lessening the impact on other services provided on the secondary audio stream, given the higher priority of emergency information.'' [7] Thus,

[1] 47 CFR 79.2(b)(2)(ii).

[2] *Accessible Emergency Information; Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket Nos. 12–107, 11–43, Report and Order, FCC 13–45, 78 FR 31770, para. 23 (2013) (''First Report and Order''). ''Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.'' Note to 47 CFR 79.2(a)(2).

[3] *First Report and Order,* para. 24 (further noting that, even if a broadcaster employs text-to-speech (''TTS'') technologies, the critical details of emergency information conveyed in a graphic display can be included in the text that will be converted to speech before the TTS conversion takes place).

[4] National Association of Broadcasters, Petition for Temporary Partial Exemption and Limited Waiver, MB Docket No. 12–107, at 10, n.11 (filed Mar. 27, 2015) (''NAB Waiver Petition''). *See also id.* at 13 (stating that ''it is common for broadcasters to run a crawl of school closings, during both newscasts and non-newscast programming'' and to also ''run a second crawl on the screen during non-newscast programming with [ ] critical, potentially life-saving information, . . . [b]ut, with currently-available technology, the station would have no way of prioritizing the vital information . . . over the ongoing audible crawl of the school closings'').

[5] 47 CFR 79.2(a)(2).

[6] *First Report and Order*, para. 29.

[7] *See id.* Although the Commission did not modify the definition of emergency information to delete school closings and school bus schedule changes that result from a current emergency from the list of examples, it found that covered entities have the option to air a brief audio message on the secondary audio stream at the start of the crawl indicating that this information will be aired at the conclusion of video-described programming, and to subsequently provide this information aurally on

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covered entities are required by the rule to ensure that visual emergency information regarding school closings and school bus schedule changes resulting from emergency situations aired during non-newscast programming is conveyed aurally on a secondary audio stream.[8]

9. In its waiver petition, NAB requests a limited waiver of the requirement to include school closings in the audible crawl pending identification of an alternative solution by all interested stakeholders.[9] NAB suggests that this issue should be referred to the Commission's Disability Advisory Committee's (''DAC'') Video Programming subcommittee to develop an alternative solution.[10] According to NAB, ''an audible crawl of school closings will be prolonged and inefficient'' and could last hours, particularly given the vast number of schools typically within a station's viewing area, as well as the Commission's requirement that the crawl be repeated.[11] Further, NAB argues that currently there is no way for broadcasters to prioritize ''immediately impactful emergency information—such as a hurricane warning—over a prolonged reading of school closings,'' and the school closing information could ''interfere with the dissemination of more critical emergency information.'' [12] NAB also contends that viewers expect emergency information on the secondary audio stream to be ''succinct and targeted'' since they have to switch from the main program audio to hear it, and that information on school closings is available from other sources, including email, text messages, radio, and Internet Web sites.[13]

10. We seek comment on NAB's assertions. Given NAB's arguments, should the Commission revise its rule to provide that ''school closings and changes in school bus schedules'' resulting from emergency situations are not required to be conveyed aurally on the secondary audio stream? Or should we revise the rule to indicate that such information must be provided on the secondary audio stream only if no other emergency information is being conveyed audibly on the secondary audio stream at the same time? Should we revise the rule to provide that such information need only be conveyed once in full, rather than twice as currently required, given the potential lengthiness of the crawl? In addition, we seek comment on the benefits of providing information about school closings and changes in school bus schedules on the secondary audio stream for individuals who are blind or visually impaired, and whether the availability of other sources of this information is adequate. Although we seek comment on this issue, we encourage broadcasters and the disability community to work toward a mutually agreeable resolution in the interim through the DAC.[14]

C. Activation Mechanism for Emergency Information on the Secondary Audio Stream—MVPD Obligations

11. We seek comment on whether we should require MVPDs to provide their customers with navigation devices that contain a simple and easy to use activation mechanism for accessing emergency information on the secondary audio stream. In the *Second Report and Order,* we conclude that manufacturers of apparatus covered by section 79.105 of the Commission's rules must provide a mechanism that is simple and easy to use, such as one that is reasonably comparable to a button, key, or icon, for activating the secondary audio stream for audible emergency information pursuant to section 203 of the CVAA. Manufacturers must provide this functionality on covered apparatus by December 20, 2016. Although covered apparatus, including navigation devices, will be required to have a simple and easy to use mechanism for activating the secondary audio stream by December 20, 2016, we want to ensure that compliant devices make it into the hands of MVPD customers promptly. Under section 202 of the CVAA, the Commission has authority to promulgate regulations that require video programming distributors, including MVPDs,[15] ''to convey [ ] emergency information in a manner accessible to individuals who are blind or visually impaired.'' [16] We believe this provision gives us authority to require MVPDs to provide devices with a simple and easy to use activation mechanism because conveying audible emergency information on the secondary stream would not be ''accessible to individuals who are blind or visually impaired'' if those individuals cannot readily access it. We seek comment on that view, as well as whether any other statutory provisions grant the Commission authority to adopt such a requirement. Should MVPDs be required to provide navigation devices with a simple and easy to use activation mechanism for the secondary audio stream only upon request by a customer or should MVPDs be required to provide devices with this functionality to all customers? What time frame would be appropriate for requiring MVPDs to provide navigation devices with a simple and easy to use activation mechanism for the secondary audio stream? We seek comment on these or any other issues related to implementation of such a requirement.

12. In addition, we seek comment on whether we should require MVPDs to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services. In the *Second Report and Order,* we adopt rules requiring MVPDs to pass through a secondary audio stream containing audible emergency information when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. In particular, we conclude that MVPDs must ensure that any application or plug-in that they provide to consumers to access such programming is capable

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the secondary audio stream at the conclusion of the video-described programming. *Id.* at para. 31.

[8] *See id.* The Commission left it to the good faith judgment of the broadcaster or other covered entity to decide whether school closings and school bus schedule changes result from a situation that is a current emergency based on its severity and potential to threaten life, health, safety, and property and indicated that it would not sanction broadcasters or other covered entities for a reasonable exercise of their judgment in this regard. *Id.* at para. 31 & n.136. *But see* NAB Waiver Petition at 11, n.14 (''Rather than risking an investigation and potential fine, however, NAB respectfully submits that most broadcasters would err on the side of caution in determining whether a given school closing falls under the Audible Crawl Rule.'').

[9] *See* NAB Waiver Petition at 11–14.

[10] *Id.* at 11 & n.15.

[11] *Id.* at 12. Section 79.2(b)(2)(ii) of the Commission's rules requires that emergency information provided aurally on the secondary audio stream be conveyed in full at least twice to ensure that consumers are able to hear all of the information after they switch from the main program audio to the secondary audio stream. *See* 47 CFR 79.2(b)(2)(ii); *First Report and Order,* para. 25.

[12] NAB Waiver Petition at 12–13.

[13] *Id.* at 13.

[14] We note that since adoption of the *Second Report and Order* the Media Bureau granted NAB's request that the Commission temporarily waive the requirement to aurally convey school closing information on the secondary audio stream in the context of the NAB Waiver Petition. *See Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Petitions for Waiver,* MB Docket Nos. 12–107, 11–43; Memorandum Opinion and Order, DA 15–632, para. 18 (MB rel. May 26, 2015).

[15] *See* 47 CFR 79.1(a)(11).

[16] 47 U.S.C. 613(g)(2).

of passing through audible emergency information on a secondary audio stream. Given that the record developed in this proceeding demonstrates that MVPDs control the ability of consumers to select and receive the secondary audio stream for linear programming provided through an MVPD application on mobile and other devices, should we require MVPDs to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information on MVPD applications and plug-ins that allow consumers to view linear programming on mobile and other devices? As noted above, section 202 of the CVAA directs the Commission to promulgate regulations that require video programming distributors, including MVPDs,[17] ''to convey [ ] emergency information in a manner accessible to individuals who are blind or visually impaired.'' [18] We believe this provision gives us authority to require MVPDs to provide a simple and easy to use activation mechanism on MVPD applications and plug-ins that allow consumers to view linear programming on mobile and other devices because conveying audible emergency information on the secondary stream would not be ''accessible to individuals who are blind or visually impaired'' if those individuals cannot readily access it. We seek comment on that view, as well as whether any other statutory provisions grant the Commission authority to adopt such a requirement. What time frame would be appropriate for requiring MVPDs to comply? In the *Second Report and Order,* we adopt a compliance deadline of two years after publication in the **Federal Register** for MVPDs to pass through a secondary audio stream with audible emergency information for linear programming on tablets, smartphones, laptops, and similar devices. Should that deadline apply to the requirement for MVPDs to provide a simple and easy to use activation mechanism for the secondary audio stream? We seek comment on these or any other issues related to implementation of such a requirement.

III. Procedural Matters

A. Initial Regulatory Flexibility Act

13. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''),[19] the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible economic impact on small entities by the policies and rules proposed in the *Second Further Notice.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as specified in the *Second Further Notice.* The Commission will send a copy of the *Second Further Notice,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').[20] In addition, the *Second Further Notice* and this IRFA (or summaries thereof) will be published in the **Federal Register**.[21]

1. Need for, and Objectives of, the Proposed Rule Changes

14. In the *Second Further Notice,* the Commission seeks comment on three issues: (i) whether to adopt rules regarding how covered entities should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time; (ii) whether to reconsider the Commission's requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream; and (iii) whether to require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services.

2. Legal Basis

15. The proposed action is authorized pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 330(b), 613, and 617.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

16. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted in the *Second Report and Order.* [22] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [23] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[24] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[25] Small entities that are directly affected by the rules adopted in the *Second Report and Order* include video programming providers and video programming distributors covered by section 79.2 of the Commission's rules.

17. *Cable Television Distribution Services.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband

[17] *See* 47 CFR 79.1(a)(11).

[18] 47 U.S.C. 613(g)(2).

[19] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[20] *See* 5 U.S.C. 603(a).

[21] *See id.*

[22] 5 U.S.C. 603(b)(3).

[23] *Id.* 601(6).

[24] *Id.* 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[25] 15 U.S.C. 632.

Internet services.'' [26] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[27] Census data for 2007 shows 3,188 firms in this category.[28] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

18. *Cable Companies and Systems.* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[29] Industry data shows that there were 1,141 cable companies at the end of June 2012.[30] Of this total, all but 10 incumbent cable companies are small under this size standard.[31] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[32] Current Commission records show 4,945 cable systems nationwide.[33] Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more, based on the same records. Thus, under this standard, we estimate that most cable systems are small.

19. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [34] There are approximately 56.4 million incumbent cable video subscribers in the United States today.[35] Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[36] Based on available data, we find that all but 10 incumbent cable operators are small under this size standard.[37] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[38] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

20. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, Wired Telecommunications Carriers,[39] which was developed for small wireline businesses. In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[40] Census data for 2007 shows 3,188 firms in this category.[41] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts.[42] Currently, only two entities provide DBS service, which

[26] U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition) at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.* Examples of this category are: broadband Internet service providers (*e.g.,* cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed circuit television (''CCTV'') services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (''DTH'') services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (''MMDS'').

[27] 13 CFR 121.201; NAICS Code 517110.

[28] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[29] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *Implementation of Sections of the Cable Television Consumer Protection And Competition Act of 1992: Rate Regulation,* MM Docket No. 92–266, MM Docket No. 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, FCC 95–196, 60 FR 35854 (1995).

[30] NCTA, Industry Data, Number of Cable Operating Companies (June 2012), *http://www.ncta.com/Statistics.aspx* (visited Sept. 28, 2012). Depending upon the number of homes and the size of the geographic area served, cable operators use one or more cable systems to provide video service. *See Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming,* MB Docket No. 12–203, Fifteenth Report, FCC 13–99 at para. 24 (rel. July 22, 2013) (''*15th Annual Competition Report''*).

[31] *See* SNL Kagan, ''Top Cable MSOs—12/12 Q''; available at *http://www.snl.com/InteractiveX/TopCableMSOs.aspx?period=2012Q4&sortcol=subscribersbasic&sortorder=desc.* We note that, when applied to an MVPD operator, under this size standard (*i.e.,* 400,000 or fewer subscribers) all but 14 MVPD operators would be considered small. *See* NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013). The Commission applied this size standard to MVPD operators in its implementation of the CALM Act. *See Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act,* MB Docket No. 11–93, Report and Order, FCC 11–182, 77 FR 40276, para. 37 (2011) (''*CALM Act Report and Order''*) (defining a smaller MVPD operator as one serving 400,000 or fewer subscribers nationwide, as of December 31, 2011).

[32] 47 CFR 76.901(c).

[33] The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on Aug. 28, 2013. A cable system is a physical system integrated to a principal headend.

[34] 47 U.S.C. 543(m)(2); *see* 47 CFR 76.901(f) & nn. 1–3.

[35] *See* NCTA, Industry Data, Cable Video Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013).

[36] 47 CFR 76.901(f); *see* Public Notice, FCC Announces New Subscriber Count for the Definition of Small Cable Operator, DA 01–158 (Cable Services Bureau, Jan. 24, 2001).

[37] *See* NCTA, Industry Data, Top 25 Multichannel Video Service Customers (2012), *http://www.ncta.com/industry-data* (visited Aug. 30, 2013).

[38] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to 47 CFR 76.901(f).

[39] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[40] 13 CFR 121.201; NAICS Code 517110.

[41] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[42] 13 CFR 121.201; NAICS code 517510 (2002).

requires a great investment of capital for operation: DIRECTV and DISH Network.[43] Each currently offer subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

21. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, Wired Telecommunications Carriers,[44] which was developed for small wireline businesses. In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[45] Census data for 2007 shows 3,188 firms in this category.[46] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

22. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Wired Telecommunications Carriers.[47] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[48] Census data for 2007 shows 3,188 firms in this category.[49] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

23. *Open Video Services.* The open video system (OVS) framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.[50] The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,[51] OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers.[52] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[53] Census data for 2007 shows 3,188 firms in this category.[54] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition, we note that the Commission has certified some OVS operators, with some now providing service.[55] Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises.[56] The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

24. *Wireless cable systems—Broadband Radio Service and*

[43] *See 15th Annual Competition Report,* at para. 27. As of June 2012, DIRECTV is the largest DBS operator and the second largest MVPD in the United States, serving approximately 19.9 million subscribers. DISH Network is the second largest DBS operator and the third largest MVPD, serving approximately 14.1 million subscribers. *Id.* para. 27, 110–11.

[44] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[45] 13 CFR 121.201; NAICS Code 517110.

[46] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[47] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[48] 13 CFR 121.201; NAICS Code 517110.

[49] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[50] 47 U.S.C. 571(a)(3) through (4). *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* MB Docket No. 06–189, Thirteenth Annual Report, FCC 07–206, 74 FR 11102, para. 135 (2009) (''*Thirteenth Annual Cable Competition Report*'').

[51] *See* 47 U.S.C. 573.

[52] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined in part as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[53] 13 CFR 121.201; NAICS Code 517110.

[54] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[55] A list of OVS certifications may be found at *http://www.fcc.gov/mb/ovs/csovscer.html.*

[56] *See Thirteenth Annual Cable Competition Report,* para. 135. BSPs are newer businesses that are building state-of-the-art, facilities-based networks to provide video, voice, and data services over a single network.

Educational Broadband Service. Wireless cable systems use the Broadband Radio Service (BRS) [57] and Educational Broadband Service (EBS) [58] to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years.[59] The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities.[60] After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas.[61] The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid.[62] Auction 86 concluded in 2009 with the sale of 61 licenses.[63] Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

25. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' [64] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[65] Census data for 2007 shows 3,188 firms in this category.[66] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities. In addition to Census data, the Commission's internal records indicate that as of September 2012, there are 2,241 active EBS licenses.[67] The Commission estimates that of these 2,241 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.[68]

26. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. ILECs are included in the SBA's economic census category, Wired Telecommunications Carriers.[69] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[70] Census data for 2007 shows 3,188 firms in this category.[71] Of these 3,188 firms, only 44 had 1,000 or more employees.

[57] BRS was previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS). *See Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* MM Docket No. 94–131, PP Docket No. 93–253, Report and Order, FCC 95–230, 60 FR 36524, para. 7 (1995).

[58] EBS was previously referred to as the Instructional Television Fixed Service (ITFS). *See id.*

[59] 47 CFR 21.961(b)(1).

[60] 47 U.S.C. 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard of 1,500 or fewer employees.

[61] *Auction of Broadband Radio Service (BRS) Licenses, Scheduled for October 27, 2009, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86,* Public Notice, DA 09–1376 (WTB rel. Jun. 26, 2009).

[62] *Id.*

[63] *Auction of Broadband Radio Service Licenses Closes, Winning Bidders Announced for Auction 86, Down Payments Due November 23, 2009, Final Payments Due December 8, 2009, Ten-Day Petition to Deny Period,* Public Notice, DA 09–2378 (WTB rel. Nov. 6, 2009).

[64] U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition) at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch*. Examples of this category are: Broadband Internet service providers (*e.g.,* cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed circuit television (''CCTV'') services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (''DTH'') services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (''MMDS'').

[65] 13 CFR 121.201; NAICS Code 517110.

[66] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

[67] *http://wireless2.fcc.gov/UlsApp/UlsSearch/results.jsp.*

[68] The term ''small entity'' within SBREFA applies to small organizations (non-profits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). *5 U.S.C. 601(4)* through *(6).*

[69] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[70] 13 CFR 121.201; NAICS Code 517110.

[71] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

27. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' [72] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope.[73] We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

28. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. These entities are included in the SBA's economic census category, Wired Telecommunications Carriers.[74] In this category, the SBA deems a wired telecommunications carrier to be small if it has 1,500 or fewer employees.[75] Census data for 2007 shows 3,188 firms in this category.[76] Of these 3,188 firms, only 44 had 1,000 or more employees. While we could not find precise Census data on the number of firms with in the group with 1,500 or fewer employees, it is clear that at least 3,144 firms with fewer than 1,000 employees would be in that group. Therefore, under this size standard, the majority of such businesses can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

29. In this section, we describe the reporting, recordkeeping, and other compliance requirements proposed in the *Second Further Notice* and consider whether small entities are affected disproportionately by any such requirements.

30. In the *Second Further Notice,* the Commission seeks comment on three issues: (i) Whether to adopt rules regarding how covered entities should prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time; (ii) whether to reconsider the Commission's requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream; and (iii) whether to require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services.

31. With respect to the first issue, the *Second Further Notice* asks whether the Commission should adopt rules to provide clarity to covered entities on how to prioritize emergency information on the secondary audio stream when complying with the requirements in Section 79.2. There are no new reporting or recordkeeping requirements proposed. There will, however, be compliance requirements for video programming providers and video programming distributors, including small entities. Specifically, covered entities will need to comply with any rules that govern how to prioritize emergency information conveyed aurally on the secondary audio stream when more than one source of visual emergency information is presented on-screen at the same time.

32. With respect to the second issue, the *Second Further Notice* seeks comment on whether the Commission should reconsider the requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream, considering the length of such information and the limits of the secondary audio stream. There are no new reporting, recordkeeping, or compliance requirements proposed.

33. With respect to the third issue, the *Second Further Notice* asks whether the Commission should require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services. This would impose compliance requirements on MVPDs, including small MVPDs. In addition, there may be reporting or recordkeeping obligations. For example, the Commission may decide to impose a notification requirement so that consumers are aware of the availability of accessible navigation devices that include a simple and easy to use activation mechanism for the secondary audio stream.

5. Steps Taken To Minimize Significant Impact on Small Entities and Significant Alternatives Considered

34. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the

[72] 15 U.S.C. 632.

[73] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small-business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. *See* 13 CFR 121.102(b).

[74] *See* 13 CFR 121.201; 2012 NAICS code 517110. This category of Wired Telecommunications Carriers is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. *By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''* (*Emphasis* added to text relevant to satellite services.) U.S. Census Bureau, 2012 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[75] 13 CFR 121.201; NAICS Code 517110.

[76] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.*

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[77]

35. Two of the rule changes contemplated by the *Second Further Notice* would not impose a significant impact on small entities. The Commission is considering a rule that would provide guidance to covered entities on how to prioritize emergency information on the secondary audio stream when there are multiple sources of visual emergency information shown on-screen during non-newscast programming, and the costs and burdens associated with such a rule are expected to be *de minimis* or non-existent. Further, the Commission is considering whether to reconsider the requirement for ''school closings and changes in school bus schedules'' resulting from emergency situations to be conveyed aurally on the secondary audio stream. Such a rule change would minimize the costs and burdens on regulated entities of all sizes.

36. The Commission is also seeking comment on whether to require MVPDs to ensure that the navigation devices that they provide to subscribers include a simple and easy to use activation mechanism for accessing audible emergency information on the secondary audio stream, and to provide a simple and easy to use mechanism to activate the secondary audio stream for emergency information when they permit subscribers to view linear programming on mobile and other devices as part of their MVPD services. This proposed rule may have an economic impact in some cases, and that impact may affect small entities. Although the Commission has considered alternatives where possible, as directed by the RFA, to minimize economic impact on small entities, we emphasize that our action is governed by the congressional mandate contained in section 202 of the CVAA.

37. Based on these considerations, we believe that, in proposing additional rules in the *Second Further Notice,* we have appropriately considered both the interests of blind or visually impaired individuals and the interests of the entities who will be subject to the rules, including those that are smaller entities, consistent with Congress' goal to ''update the communications laws to help ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.'' [78]

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

38. None.

B. Paperwork Reduction Act

39. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).[79] In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.[80]

C. Ex Parte Rules

40. We remind interested parties that this proceeding is treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[81] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Filing Requirements

41. Pursuant to sections 1.415 and 1.419 of the Commission's rules,[82] interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All comments are to reference MB Docket No. 12–107 and may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS) or (2) by filing paper copies.[83]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be

[77] 5 U.S.C. 603(c)(1) through (c)(4).

[78] H.R. Rep. No. 111–563, 111th Cong., 2d Sess. at 19 (2010); S. Rep. No. 111–386, 111th Cong., 2d Sess. at 1 (2010).

[79] The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

[80] The Small Business Paperwork Relief Act of 2002 (SBPRA), Public Law 107–198, 116 Stat 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); *see* 44 U.S.C. 3506(c)(4).

[81] 47 CFR 1.1200 *et seq.*

[82] *See* 47 CFR 1.415, 1419.

[83] *See Electronic Filing of Documents in Rulemaking Proceedings,* GC Docket No. 97–113, Report and Order, FCC 98–56, 63 FR 24121 (1998).

addressed to 445 12th Street SW., Washington, DC 20554.

42. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *mailto:fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

43. *Availability of Documents.* Comments and reply comments will be publically available online via ECFS.[84] These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW., Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

E. Additional Information

44. For additional information on this proceeding, contact Maria Mullarkey, *Maria.Mullarkey@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

IV. Ordering Clauses

45. Accordingly, *it is ordered* that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and the authority found in Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 330(b), 613, and 617, this *Second Further Notice of Proposed Rulemaking is adopted.*

46. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Further Notice of Proposed Rulemaking* in MB Docket No. 12–107, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–16323 Filed 7–9–15; 8:45 am]

BILLING CODE 6712–01–P

[84] Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–XE008

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Denial of Petition for Rulemaking for Gulf of Maine Cod

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

ACTION: Notice of agency decision.

SUMMARY: In response to the most recent stock assessment for Gulf of Maine cod, which indicated that the stock is at historically low abundance levels, a group of environmental organizations have requested that NMFS initiate rulemaking to make the following changes: prohibit commercial and recreational fishing for Gulf of Maine cod until the incidental fishing mortality does not exceed the acceptable biological catch limit; and limit catch, including discards, to the level that achieves the fishing mortality that meets rebuilding requirements, in accordance with Amendment 16 to the Northeast Multispecies Fishery Management Plan. After reviewing the petition and considering recent management measures we have implemented to prevent overfishing of Gulf of Maine cod and promote Gulf of Maine cod rebuilding efforts, we are denying the Petition for Rulemaking request.

DATES: The petition for rulemaking was denied on June 4, 2015.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, phone: 978–281–9182; email: *William.Whitmore@noaa.gov.*

SUPPLEMENTARY INFORMATION: A group of environmental organizations, including The Center for Biological Diversity, Greenpeace, SandyHook Life Foundation, and The Turtle Island Restoration Network, have requested that NMFS initiate rulemaking under the Administrative Procedure Act. The petitioners request that, because the most recent stock assessment for Gulf of Maine (GOM) cod indicates that the stock is at historically low abundance levels, NMFS initiate rulemaking to make the following changes: (1) Prohibit commercial and recreational fishing for GOM cod until the incidental fishing mortality does not exceed the acceptable biological catch (ABC) limit; and (2) limit catch, including discards, to the level that achieves the fishing mortality that meets rebuilding requirements ($F_{rebuild}$), in accordance with Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP).

We are denying the Petition for Rulemaking. The measures in Framework Adjustment 53 to the FMP (80 FR 25110; May 1, 2015), combined with other conservation and management measures we implemented for the recreational fishery (80 FR 25160; May 1, 2015), are expected to prevent catch from exceeding the ABC, prevent overfishing, and rebuild the GOM cod stock within the rebuilding period. Further, we intend to carefully monitor updated stock assessment information, which will be available later this year, and will adjust measures, if necessary, to address any changes to stock condition. We carefully considered the available information and determined that all of the management measures implemented in the Framework 53 final rule, along with corresponding recreational measures, and our continued close monitoring of the stock's condition, will provide sufficient protection for GOM cod to prevent overfishing and contribute to rebuilding consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. These measures balance Magnuson-Stevens Act objectives, including achieving optimum yield and taking into account the needs of fishing communities, without compromising conservation objectives to prevent overfishing and rebuild the stock. In effect, therefore, Framework 53, combined with the other recreational measures, achieves exactly what the petition for rulemaking seeks. Moreover, Framework 53 was developed and implemented through the preferred Regional Fishery Management Council process as intended by the Magnuson-Stevens Act. Accordingly, as described in more detail below, neither a Secretarial amendment nor an emergency action is necessary or warranted to further limit GOM cod mortality at this time.

Background

Petition Request

In August 2014, the Northeast Fisheries Science Center updated the 2012 benchmark GOM cod stock assessment. The assessment found that the GOM cod stock is overfished, subject to overfishing, and that the condition of the stock had declined

further from the 2012 assessment that was used as a basis for the revised rebuilding plan established in Framework 51. The 2014 assessment showed historically low abundance and estimated that GOM cod was at only 3 percent of its rebuilding target. In response, on November 13, 2014, we issued interim measures (79 FR 67362) to limit cod mortality for the duration of the 2014 fishing year (which ended on April 30, 2015).

We received a petition for rulemaking on March 3, 2015, largely in response to the results of the most recent GOM cod stock assessment, the interim measures to reduce GOM cod mortality, and the Council's recommended measures for long-term GOM cod protection in Framework 53. The petitioners requested that NMFS initiate rulemaking to limit GOM fishing mortality consistent with the specifications of the default ABC control rule implemented in Amendment 16. In support of their request, the petitioners contend that historic overfishing and mismanagement of the GOM cod stock have led to declines in landings and stock abundance, and resulted in changes to the stock's age structure (*i.e.,* reduced the number of big, old, fat, fertile female fish), spawning locations, migratory behavior, and prey. They assert that because past GOM cod assessments have consistently overestimated cod spawning stock biomass and underestimated fishing mortality, managers should consider larger uncertainty buffers.

The petitioners claim that the ongoing management regime for GOM cod has not successfully ended overfishing or promoted rebuilding of the GOM cod stock, and that the management measures proposed in Framework 53 will not support rebuilding by the end of the revised rebuilding plan deadline in 2024. Specifically, they claimed:

- The 2004 GOM cod rebuilding plan failed because the Council set catch limits to maximize fishing opportunity rather than promote stock conservation, and because the Council prolonged overfishing by choosing the maximum rebuilding timeline possible.
- The 2014 GOM cod interim measures did not temporarily address overfishing or allow for stock rebuilding, and were only projected to result in a 33-percent reduction in fishing mortality in spite of advice from the Council's Scientific and Statistical Committee (SSC) that a 75-percent reduction in fishing limits was necessary.
- The 386-mt GOM cod ABC recommended by the Council in Framework 53 is above the legal limit (*i.e.,* 200 mt, the level of catch necessary to achieve a fishing mortality equal to $F_{rebuild}$), and is unlikely to allow the stock to rebuild by 2024.

To remedy the situation, the petitioners request that we prohibit commercial and recreational fishing for GOM cod until incidental fishing mortality does not exceed the ABC, and limit catch, including discards, to the level that achieves a fishing mortality rate that meets rebuilding requirements ($F_{rebuild}$). In addition, the petitioners suggest that because proper accounting for dead discards may be one reason that cod failed to rebuild from 2004–2014, NMFS should increase observer coverage for the commercial fleet to 100 percent to ensure that mortality of GOM cod is monitored and counted toward catch limits.

Framework 53

While we were developing the GOM cod interim measures, the New England Fishery Management Council developed measures to end overfishing in the 2015 fishing year (beginning May 1, 2015) and for long-term measures to rebuild the GOM cod stock, consistent with the revised rebuilding program, as part of Framework 53. Framework 53, which was implemented May 1, 2015, includes a 75-percent reduction to the GOM cod catch limit compared to 2014, a prohibition on recreational possession of GOM cod, and seasonal area closures intended to protect spawning and reduce fishing mortality on GOM cod.

Framework 53 also includes measures consistent with the goals of a revised 10-year rebuilding plan for GOM cod that was established in Framework 51 (79 FR 22421; April 22, 2014). The 10-year rebuilding program is intended to account for past performance of groundfish rebuilding programs and uncertainties in long-term catch projections by setting conservative catch levels in the early years of the program. This timeframe also provides flexibility to better address the needs of fishing communities compared to rebuilding programs that target an earlier end date.

Basis for Denial

Section 304 of the Magnuson-Stevens Act provides the Secretary of Commerce with the authority to prepare and implement a fishery management plan if the Council fails to develop and submit a plan or amendment after a reasonable period of time that meets necessary conservation and management objectives. Or, the agency may put in place emergency regulations or interim measures to address an emergency or overfishing. An emergency rulemaking allows actions to prevent overfishing or economic loss or to preserve economic opportunity when the emergency results from recent, unforeseen events or recently discovered circumstances. An interim rule allows for measures that reduce overfishing for a limited time. The benefits of using the abbreviated rulemaking procedures associated with emergency rulemaking and interim measures must outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as expected under the normal Council and full notice-and-comment rulemaking process.

Rulemaking is not appropriate in this instance because it would unnecessarily replace the measures established in Framework 53 and the recreational measures put in place through the Council process. These measures achieve what the petition for rulemaking seeks. These measures balance Magnuson-Stevens Act objectives, including achieving optimum yield and taking into account the needs of fishing communities, without compromising conservation objectives to prevent overfishing and rebuild the stock. Therefore, neither a Secretarial amendment nor an emergency action is necessary or warranted at this time to further limit GOM cod mortality.

2004 Rebuilding Plan

We do not agree with the petitioner's statements that the Council-recommended catch levels for GOM cod during the 2004 rebuilding program were intended to maximize economic gain at the expense of the health of the stock. A 2008 stock assessment reviewed progress under the plan and concluded that the stock was not overfished but overfishing was occurring, and, based in part on a strong 2005 year class, the stock was expected to rebuild by 2014.

We notified the Council about the lack of progress under the 2004 rebuilding plan following the 2012 GOM cod benchmark assessment. We determined that inadequate progress under the 2004 rebuilding plan was due to a revised understanding of the condition of the stock since the 2008 GOM cod assessment. In response to the new understanding of the status of the GOM cod stock, we worked with the Council to implement measures to reduce overfishing and revise the rebuilding plan as swiftly as possible though a 2012 interim action, and Frameworks 50 and 51. These actions incorporated new information and lessons from past management approaches. Our review of the Council's

revised 2014 GOM cod rebuilding plan adopted in Framework 51 indicated that the Council addressed past rebuilding performance and accelerated the rebuilding timeline by setting more conservative catch limits in the early portion of the rebuilding program.

2014 Interim Action

We reject the petitioners claim that the 2014 interim action insufficiently addressed the information provided in the updated assessment. One of our primary objectives of the interim action was to reduce overfishing by reducing GOM cod commercial and recreational catch. Given the mixed nature of the groundfish fishery and its interaction with other fisheries, this objective was analyzed in the context of not closing down the entire GOM, but to allow some harvesting of other groundfish stocks. We wanted to reduce GOM cod mortality while the Council developed more permanent measures in Framework 53. We determined it was unnecessary to try to prevent all fishing mortality for the remainder of the 2014 fishing year as the stock can rebuild even if subject to overfishing in 2014 as long as measures would be in place to prevent overfishing beginning in 2015. Achieving zero fishing mortality would have required closing all GOM fisheries, including those that do not target groundfish. The impacts of such measures would be substantial and impracticable. Such a closure was unwarranted to ensure effective cod conservation.

Framework 53 GOM Cod ABC

Most recently, we considered public comment on and supporting analysis for Framework 53 and the 2015 recreational measures, and the best scientific information available in making the determination that an ABC of 386 mt was appropriate and consistent with the requirements of the Magnuson-Stevens Act and its National Standards. In light of current stock conditions, the 386 mt ABC is a 75-percent catch limit reduction compared to 2014, which is in addition to the 80-percent reduction implemented for the 2013–2014 fishing years. In total, the GOM cod catch limit has been reduced by 95 percent over the last 5 years. Further, new recreational measures prohibit recreational fishermen from retaining any GOM cod. This is the first zero-retention prohibition on GOM cod for recreational fishermen. Detailed information that addresses the petitioners concerns about the GOM cod ABC and further justifies our decision to approve an ABC of 386 mt can be found in the Framework 53 final rule (see pages 25125–25127).

We will continue to carefully consider management measures to promote timely rebuilding of the GOM cod stock. In an effort to closely monitor stock indicators, we reviewed the recent fall 2014 NEFSC bottom trawl survey indices. The fall survey indicated a small increase compared to 2012 and 2013; however, the general trend of survey indices, as well as recruitment, remains very low. While the updated survey information may provide an initial, and potentially positive, indication of improvement, it is difficult to anticipate the results of the full 2015 assessment. In any event, we plan to make necessary adjustments for the 2016 fishing year based on the upcoming 2015 stock assessment.

Incidental Fishing Mortality

The petitioners request prohibiting fishing mortality until incidental mortality does not exceed the ABC. An ABC of 386 mt is expected to have substantial adverse economic impacts on groundfish vessels, and is below the estimate of incidental catch of GOM cod that occurred in the 2013 fishing year. In the 2013 fishing year, when the ACL was reduced by 80 percent, incidental catch was estimated to be approximately 500–600 mt. Beginning in the 2013 fishing year, sectors primarily used their GOM cod allocation to access other groundfish stocks. Multiple sources of information indicate a marked decline in directed fishing for GOM cod. With an additional 75-percent reduction beginning in the 2015 fishing year, the incentive to target GOM cod is virtually eliminated, and the fishery will be, in effect, a ''bycatch-only'' fishery. Incidental catch is largely a function of the overall ACLs on other stocks. At such a low GOM cod catch limit, fishery operations will be greatly restricted, and in some cases eliminated. In addition, the recreational fishery will be prohibited from possessing any GOM cod. Under this incidental catch scenario, the GOM cod ABC is expected to severely restrict catch of other groundfish stocks, particularly GOM haddock, pollock, redfish, and some flatfish. Based on this information, the 386-mt ABC balances Magnuson-Stevens Act requirements of conservation and achieving optimum yield.

Monitoring and Catch Accounting

The petitioners raised a concern that inaccurate accounting for catch could undermine conservation objectives for GOM cod. We share their concern, and available analyses suggest that an extremely low catch limit for GOM cod may create an economic incentive to misreport catch. If misreporting occurs, it could reduce the accuracy of catch apportionment. Information indicates that this incentive increases as the GOM cod catch limit is further reduced. To help ensure correct catch apportionment and compliance with the GOM cod ACL adopted in Framework 53, we also implemented an additional daily reporting requirement for common pool and sector vessels fishing in multiple broad stock areas on the same trip. This requirement is intended to help ensure accurate catch attribution and reduce the incentive for vessels to misreport.

We do not share the petitioners' view that 100-percent observer coverage is necessary to monitor GOM cod fishing mortality. Rather, we apply at-sea monitoring coverage levels that we determine are necessary to monitor and enforce catch levels, or increase buffers to account for uncertainty in catch as part of the biennial quota-setting process. We have received similar comments on prior groundfish rulemakings requesting high levels of observer coverage for the commercial fishery since the implementation of Amendment 16. For the most part, commenters have generally asserted that the levels of monitoring we have implemented are inadequate without providing any specific justification or information to support their assertion.

For sector trips, we have determined that 24-percent observer coverage is sufficient this fishing year, to the extent practicable in light of Magnuson-Stevens Act requirements, to reliably estimate catch for purposes of monitoring ACLs for groundfish stocks. This level of coverage is achieved through a combination of groundfish at-sea monitoring coverage and observer coverage furnished by the Northeast Fisheries Observer Program. Amendment 16 specified that at-sea monitoring coverage levels should be less than 100 percent, which requires estimations of the discard portion of catch and thus total catch. Amendment 16 also specified that the at-sea monitoring coverage levels should achieve a 30-percent coefficient of variation (CV). The level of observer coverage, ultimately, should provide confidence that the overall catch estimate is sufficiently accurate to ensure that sector fishing activities are consistent with National Standard 1 requirements to prevent overfishing while achieving optimum yield. To that end, significant additional uncertainty buffers are established when setting ACLs that mitigate any lack of absolute precision and accuracy in estimating overall catch by sector vessels. Collectively, the current level of sector

observer coverage is providing more data for quota management and assessment science than was available to NMFS prior to implementation of Amendment 16.

On February 18, 2014, in *Oceana, Inc.* v. *Pritzker,* 1:13–cv–00770 (D.D.C. 2014), the Court upheld our use of a 30-percent CV standard to set sector observer coverage levels. In addition to upholding our determination of sufficient coverage levels, the Court noted that the current sector observer coverage is not the sole method of monitoring compliance with ACLs, there are many reporting requirements that vessels adhere to, and there are strong incentives for vessels to report accurately because each sector is held jointly and severally liable for overages and misreporting of catch and bycatch.

Conclusion

We remain concerned about the status of GOM cod, but have determined that the current FMP, as adjusted by Framework 53, along with recreational measures and planned future Council and agency actions, provide the appropriate regulatory mechanisms for addressing the concerns regarding this stock that were raised in the petition for rulemaking. We will continue to carefully monitor stock indicators leading into the 2015 assessment to fully inform our re-evaluation of the GOM cod catch limit, and the need to balance conservation and management objectives. Therefore, we are denying this petition; no other rulemaking is necessary in response to the petition for rulemaking.

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

Dated: July 6, 2015.

Samuel D. Rauch III,

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

[FR Doc. 2015–16891 Filed 7–9–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150126078–5078–01]

RIN 0648–BE85

Fisheries of the Exclusive Economic Zone Off Alaska; Revise Maximum Retainable Amounts for Skates in the Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to reduce the maximum retainable amount (MRA) of skates using groundfish and halibut as basis species in the Gulf of Alaska (GOA) from 20 percent to 5 percent. Reducing skate MRAs is necessary to decrease the incentive for fishermen to target skates and slow the catch rate of skates in these fisheries. This proposed rule would enhance conservation and management of skates and minimize skate discards in GOA groundfish and halibut fisheries. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and other applicable laws.

DATES: Comments must be received no later than August 10, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0015, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0015,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

Electronic copies of the draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively the ''Analysis''), Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Final EIS), Supplementary Information Report (SIR) to the Final EIS, and the Initial Regulatory Flexibility Analysis (IRFA) for the Gulf of Alaska Groundfish Harvest Specifications for 2015 and 2016 (Harvest Specifications IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Peggy Murphy, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone of the GOA under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq*. Regulations governing groundfish fishing in the GOA and implementing the FMP appear at 50 CFR parts 600 and 679. The Council and NMFS manage skates (*Raja* and *Bathyraja* species) as a groundfish species under the FMP.

Background

NMFS proposes to modify regulations that specify the MRA for skates in the GOA. An MRA is the maximum amount of a species closed to directed fishing (*i.e.,* skate species) that may be retained onboard a vessel. MRAs are calculated as a percentage of the weight of catch of each groundfish species or halibut open to directed fishing (the basis species) that is retained onboard the vessel. MRAs assist in limiting catch of a species within its annual total allowable catch (TAC). Once the TAC for a species is reached, retention of that species becomes prohibited and all catch of that species must be discarded. NMFS closes a species to directed fishing before the entire TAC is taken to leave sufficient amounts of the TAC available for incidental catch. The amount of the TAC remaining available for incidental catch is managed by a species-specific MRA. MRAs are a management tool to slow down the rate of harvest and reduce the incentive for targeting a species closed to directed fishing. NMFS has established a single MRA percentage for big skate (*Raja binoculata*), longnose skate (*Raja rhina*), and for all remaining skate species (*Bathyraja spp.*). The skate MRA in the GOA is set at 20 percent. The proposed rule would reduce the MRA for skates

in the GOA from 20 percent to 5 percent. The reduced MRA would apply to all vessels directed fishing for groundfish species or halibut in the GOA. Under the proposed rule, the round weight of the retained skate species could be no more than 5 percent of the round weight of the basis species.

The Council recommended and NMFS proposes to reduce the skate MRA to decrease the incentive for fishermen to target skates while directed fishing for groundfish and halibut, and to slow the harvest rate of skates in GOA groundfish and halibut fisheries. Information from recent years of skate catch in directed groundfish and halibut fisheries indicates that some fishermen have maximized their retention of skates early in the year by deliberately targeting them while directed fishing for other species. Over a period of years, the TAC of big skate and longnose skate has been exceeded in the Central GOA and Western GOA, respectively. In response, NMFS has prohibited retention of skates earlier in the year to reduce incentives to target skates and maintain catch at or below the TACs established for skate species in specific GOA regulatory areas. A prohibition on retention results in mandatory discard of all skate catch for the remainder of the year.

This proposed rule would limit the amount of skates that could be retained while directed fishing for other groundfish and halibut. The proposed rule would slow the harvest rate of skates and would enhance NMFS' ability to limit the catch of skates to the skate TACs. In addition, the proposed rule is expected to minimize discards of skates by reducing the likelihood that NMFS would need to prohibit retention of a skate species in a GOA management area during the year to maintain skate catch at or below its TAC.

This proposed rule would make four amendments to regulations. First, this proposed rule would amend regulations to reduce the skate MRA for all vessels fishing for groundfish and halibut in the GOA. This proposed rule would amend regulations that establish a skate MRA for all groundfish and halibut basis species in Table 10 to 50 CFR part 679 and for the fisheries under the Central GOA Rockfish Program in Table 30 to 50 CFR part 679. Second, this proposed rule would make minor clarifications in MRA regulations applicable to the Central GOA Rockfish Program. Third, this proposed rule would make minor corrections to incorrect cross references in regulations in §§ 679.7 and 679.28. Finally, this proposed rule would revise Table 2a to 50 CFR part 679 by adding whiteblotched, Alaska, and Aleutian skates as well as the scientific names for individual skate species that were inadvertently removed by a previous rule making.

The following sections describe (1) management of skates in the GOA and the fisheries that would be affected by the rule; (2) the need for the proposed rule; and (3) the proposed rule.

Management of Skates in the GOA and the Fisheries Affected by the Proposed Rule

Management of Skates in the GOA

In the GOA, the Council and NMFS manage skates as a groundfish species under the FMP. Management of skates in the GOA is described in Section 3.1.2 of the Analysis. Big skate and longnose skate are managed as single species, and all other skate species are managed in the ''other skates'' species group.

GOA skate catches are managed subject to annual limits on the amounts of each species of skate, or group of skate species, that may be taken. The annual limits are defined in the FMP and referred to as ''harvest specifications.'' The overfishing limits (OFLs), acceptable biological catch (ABCs), and TACs for skates are specified through the annual ''harvest specification process.'' The FMP requires that the Council recommend and NMFS specify these annual limits for each species or species group of groundfish on an annual basis. A detailed description of the annual harvest specification process is provided in the Final EIS, the SIR, and the final 2015 and 2016 harvest specifications for groundfish of the GOA (80 FR 10250, February 25, 2015) and is briefly summarized here.

Section 3.2.1 of the FMP defines the OFL as the annual amount of catch that results whenever a stock or stock complex is subjected to a level of fishing mortality or annual total catch that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis. The OFL is the catch level above which overfishing is occurring. NMFS manages fisheries to ensure that no OFLs are exceeded in any year.

Section 3.2.1 of the FMP defines the ABC as the level of a stock or stock complex's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC is set below the OFL.

Section 3.2.1 of the FMP defines the TAC as the annual catch target for a stock or stock complex, derived from the ABC by considering social and economic factors and management uncertainty (*i.e.,* uncertainty in the ability of managers to constrain catch so the annual catch limit is not exceeded, and uncertainty in quantifying the true catch amount). Section 3.2.3.4.1 of the FMP requires that the TAC must be set lower than or equal to the ABC. Section 3.2.3.4.3.2 of the FMP clarifies that TACs can be apportioned by regulatory area. There are three regulatory areas specified in the GOA management area: Western GOA, Central GOA, and Eastern GOA.

Big skate and longnose skate have OFLs and ABCs defined for the GOA management area. The ABCs for big skate and longnose skate are apportioned to each of the regulatory areas in the GOA management area according to the proportion of the biomass estimated in each regulatory area. NMFS specifies TACs for big skate and longnose skate for the Western GOA, Central GOA, and Eastern GOA equal to the ABC for each of these regulatory areas. All other species of skates are assigned to the ''other skates'' species group. The other skates species group has an OFL and ABC, and TAC specified for the GOA management area (*i.e.,* NMFS does not establish separate ABCs or TACs for the Western GOA, Central GOA, and Eastern GOA). NMFS does not establish regulatory area-specific ABCs or TACs for other skates because harvest is generally more broadly dispersed throughout the entire GOA, and they are not generally retained. All retained and discarded catch of skates accrues to the TACs, ABCs, and OFLs specified for the species. Additional detail on skate biomass and harvest specifications is available in Section 3.1.1 and 3.1.2 of the Analysis, respectively.

NMFS ensures that OFLs, ABCs, and TACs are not exceeded by requiring vessel operators participating in groundfish fisheries in the GOA to comply with a range of restrictions, such as area, time, gear, and operation-specific fishery closures. Regulations at § 679.20(d)(1), (d)(2), and (d)(3) describe the range of management measures that NMFS uses to maintain total catch at or below the TAC.

Regulations at § 679.20(d)(1)(i) specify that NMFS may establish a directed fishing allowance (DFA) for a species or species group when any allocation or apportionment of a target species or species group allocated or apportioned to a fishery will be reached. Regulations at § 679.20(d)(1)(ii)(B) specify that NMFS must also consider the amount of a species or species group closed to directed fishing that will be taken in directed fishing for other species when establishing a DFA. NMFS implements this provision through the annual

harvest specifications process by subtracting the estimated amount of incidental catch of a species or species group taken in directed fishing for other species from the TAC of that species or species group. If an insufficient amount of TAC is available for a directed fishery for that species or species group, NMFS establishes the DFA for that species or species group as zero metric tons (mt) and, in accordance with § 679.20(d)(1)(iii), prohibits directed fishing for that species or species group.

Directed fishing for groundfish in the GOA is defined at § 679.2 as any fishing activity that results in the retention of an amount of a species or species group onboard a vessel that is greater than the MRA for that species or species group. Therefore, when directed fishing for a species or species group is prohibited, retention of the species or species group is limited to an MRA. These species are referred to as incidental catch species. NMFS established MRAs to allow vessel operators fishing for species or species groups open to directed fishing to retain a specified amount of incidental catch species.

NMFS has determined that the TACs specified for all skate species in the GOA are needed to support incidental catch of skates in other groundfish and halibut fisheries. As a result, there are insufficient TACs for these species to support directed fisheries, the DFA for skates is set to zero mt, and directed fishing for skates is prohibited at the beginning of the fishing year. When directed fishing for skates is prohibited, the catch of skates is limited by an MRA.

The skate MRA is specified by basis species in Table 10 and Table 30 to 50 CFR part 679. The skate MRA is not specified by skate species. Instead, the skate MRA is based on the combined round weight of all skate species retained onboard a vessel. A single MRA for all skates was established because fishermen and processors may have difficulty identifying skate species and may not be able to easily determine if they have reached an MRA for a specific skate species. Therefore, a separate MRA for each species would be difficult to manage and enforce. Additional detail on the designation of a single skate MRA is provided in Section 4.1 of the Analysis.

Currently, the skate MRA for all basis species in the GOA is 20 percent of the basis species round weight retained onboard a vessel. This means the maximum amount of big, longnose, and other skate species that may be retained onboard a vessel must not exceed 20 percent of the round weight of other groundfish species and halibut (basis species) retained onboard a vessel. For example, a vessel operator fishing Pacific cod, a basis species open to directed fishing, may retain big, longnose, and other skates in an amount up to 20 percent of the round weight equivalent of Pacific cod that is onboard the vessel at any point in time during a fishing trip.

Amounts of skates onboard the vessel that are below or equal to the MRA may be retained. Amounts of skates in excess of the MRA must be discarded. An MRA applies at all times and to all areas for the duration of a fishing trip (see § 679.20(e)(3)). Vessel operators may retain incidental catch species while directed fishing for other groundfish species or halibut up to the MRA percentage of the basis species retained catch until the TAC for the incidental catch species is met.

Regulations at § 679.20(d)(2) specify that if the TAC for the incidental catch species is met, NMFS will prohibit retention of the incidental catch species for the remainder of the year. Regulations at § 679.21(b) specify that if retention of a species is prohibited, the operator of each vessel engaged in directed fishing for groundfish in the GOA must return the prohibited species to the sea immediately, with a minimum of injury, regardless of its condition. Therefore, when NMFS prohibits retention of an incidental catch species, such as skates, vessel operators must discard all catch of that species. The primary purpose of requiring discards is to remove any incentive for vessel operators to increase incidental catch of the species as a portion of other fisheries and to minimize the catch of that species.

Although MRAs limit the incentive to target on an incidental catch species, fishermen can ''top off'' their retained groundfish and halibut catch with incidental catch species up to the maximum permitted under the MRA. Fishermen are top-off fishing when they deliberately target and retain incidental catch species up to the MRA instead of harvesting the species incidentally. Thus, MRAs reflect a balance between NMFS' need to limit the harvest rate of incidental catch species and minimize regulatory discards of the incidental catch species while providing fishermen an opportunity to harvest available incidental species TAC through limited retention.

Fisheries That Would Be Affected by the Proposed Rule

Skates are caught in the GOA primarily by vessels directed fishing for groundfish with non-pelagic trawl gear and by vessels directed fishing for groundfish and halibut with hook-and-line gear. Very limited amounts of skates are also caught by vessels using pelagic trawl, pot, and jig gear in directed groundfish fisheries in the GOA. Section 3.1.1 of the Analysis presents detailed information on GOA skate catch by species, management area, gear, and target fishery for two time periods: From 2008 through 2012, and in 2013 and 2014. This information is briefly summarized below.

Catch data are divided into these two periods, because the individual fishing quota (IFQ) halibut and small catcher vessel hook-and-line Pacific cod fisheries were largely unobserved before 2013. Data on the incidental catch of skate species from these fisheries prior to 2013 is limited or not available. In 2013, the North Pacific Groundfish Observer Program was restructured (Restructured Observer Program) and observers were deployed in the IFQ halibut fishery and on smaller vessels (77 FR 70062, November 21, 2012). As a result, new observer data on skate catch were included in NMFS' catch accounting system. The improved observer data since 2013, and information on the amount of at-sea discards of skates from the IFQ halibut fishery and smaller hook-and-line vessels, show that an increased proportion of skate catch occurs on vessels using hook-and-line gear.

Based upon NMFS' catch accounting system, big skate catch occurs primarily in the Central GOA. Less than one tenth of the catch comes from the Western GOA or the Eastern GOA. NMFS data show that from 2008 through 2012, an average of 67 percent of the big skate catch was caught by vessels using non-pelagic trawl gear and 32 percent was caught by vessels using hook-and-line gear. During 2013 and 2104, the proportion of big skate catch by vessels using non-pelagic trawl gear decreased to 54 percent, and the proportion caught by vessels using hook-and-line gear increased to 46 percent. Big skate catch by vessels using non-pelagic trawl gear occurs predominantly in the arrowtooth flounder directed fishery. Big skate catch by vessels using hook-and-line gear occurs predominantly in the Pacific cod and halibut directed fisheries. Less than 1 percent of the big skate catch was caught by vessels using other types of gear.

The analysis indicates that congregations of big skate in the spring enable catcher vessel operators using non-pelagic trawl gear and hook-and-line gear to engage in top-off fishing. NMFS groundfish landings data on big skate confirm that specific areas have higher retention of big skate when

compared to other areas (see Section 3.1.3 of the Analysis).

Longnose skate are caught predominantly in the Central GOA, with more limited catch in the Eastern GOA, and the least amount of catch in the Western GOA. NMFS data show that from 2008 through 2012, an average of 53 percent of the longnose skate catch was caught by vessels using hook-and-line gear and 44 percent was caught by vessels using non-pelagic trawl gear. During 2013 and 2014, the proportion of longnose skate catch by vessels using hook-and-line gear increased to 67 percent, and the proportion of catch by vessels using non-pelagic trawl gear decreased to 31 percent. Longnose skate catch by vessels using hook-and-line gear occurs predominantly in Pacific cod, halibut, and sablefish directed fisheries. Longnose skate catch by vessels using non-pelagic trawl gear occurs predominantly in the arrowtooth flounder and flatfish directed fisheries. Approximately 2 percent of the longnose skate catch was caught by vessels using other types of gear.

Other skates are caught primarily in the Central GOA. From 2008 through 2012, an average of 78 percent of the other skate catch was caught by vessels using hook-and-line gear, and 20 percent was caught by vessels using non-pelagic trawl gear. During 2013 and 2014, the proportion of catch of other skate catch by vessels using hook-and-line gear increased to 90 percent and the proportion of catch by vessels using non-pelagic trawl gear decreased to 10 percent. Other skate catch by vessels using hook-and-line gear occurs predominantly in the Pacific cod, halibut, and sablefish directed fisheries. Other skate catch by vessels using non-pelagic trawl gear occurs predominantly in the arrowtooth and deep-water flatfish target fisheries. Less than 1 percent of the other skate catch was caught by vessels using other types of gear.

Need for the Proposed Rule

In December 2013, the Council received public testimony that the current MRA for skates in the GOA allows fishermen to deliberately target skates while ostensibly directed fishing for other groundfish or halibut. This ''topping-off'' pattern of maximizing skate catch up to the MRA limit of 20 percent of the basis species onboard a vessel has increased the harvest rate of skates. In recent years, skate catch has exceeded the TAC in some areas. The estimated catch of big skate exceeded the TAC in the Central GOA in 2010, 2011, 2012, and 2013, and the estimated catch of longnose skates exceeded the TAC in the Western GOA in 2009, 2010, and 2013. The catch of other skates has not exceeded the TACs established for the GOA management area; however, in 2013 and 2014, the catch of other skates was estimated at 93 percent and 98 percent of the 2013 and 2014 TACs, respectively.

When fishery managers estimated the big or longnose skate TACs would be exceeded, NMFS prohibited retention of big or longnose skates in the directed fisheries for groundfish and halibut and required discard of all big or longnose skate catch for the remainder of the calendar year. The earlier in the year that big or longnose skate retention is prohibited, the more regulatory discards of big or longnose skate can occur since groundfish and halibut fisheries will continue to catch these skates incidentally.

The Council determined and NMFS agrees that reducing the skate MRA would decrease the incentive for fishermen to engage in top-off fishing for skates and slow the harvest rate of skates to levels that more accurately reflect the rate of incidental catch of skates in the directed groundfish and halibut fisheries in the GOA. Reducing the skate MRA would slow the skate harvest rate and accrual of skate catch against the TAC. A slower harvest rate may reduce the potential that NMFS will have to prohibit skate retention to avoid exceeding a skate species' TAC. In addition, a slower harvest rate could extend skate retention throughout the year and result in lower regulatory discards of skates.

This proposed rule would help ensure that skate catch in the future does not exceed a TAC, ABC, or OFL. The Council and NMFS analyzed four alternative MRAs to reduce the incentive for fishermen to pursue top-off fishing for skates and slow the rate of skate harvest. In addition to the status quo of an MRA of 20 percent, the Council and NMFS evaluated alternatives to reduce skate MRAs to 15, 10, and 5 percent. To estimate impacts of the alternative MRAs, the Analysis considered two metrics.

First, the Analysis examined the rate of big skate catch relative to groundfish catch by directed fishery before and after big skate retention was prohibited in 2013 and 2014 (see Section 4.5.1.1 of the Analysis). The Analysis assumed that once big skate retention was prohibited by regulation, a vessel operator would not be engaging in top-off fishing for big skates if they were encountered while directed fishing for groundfish or halibut. Thus, the Analysis assumed that the relative catch rates of big skate after retention was prohibited were a reasonable estimate of the likely incidental catch rate of big skate.

The Analysis examined big skate catch rates because they are the most abundant skates in the GOA and significant proportions of big skate catches are retained compared to the catch of longnose and other skates. The 2013 and 2014 period was selected for analysis because NMFS prohibited retention of big skates in the Central GOA during these years, allowing a clear comparison of changes in catch rates after retention was prohibited. NMFS also has more complete data on big skate catch rates after 2013 due to the Restructured Observer Program.

Results from the analysis of big skate harvest rates indicate that after big skate retention was prohibited the harvest rate for big skate dropped from as much as 8.6 percent of the total groundfish and halibut catch to a harvest rate that ranged from 6.3 percent to 0.1 percent of the total groundfish and halibut catch depending on the year, gear type, and target fishery. These data indicate that participants in various target fisheries could avoid the incidental catch of big skate when there was not an incentive to retain big skates.

Second, the Analysis used a model of retained skate catch of all skate species, in all areas and by vessels using all gear types under a range of hypothetical MRAs ranging from one percent to 20 percent of the basis species. The model allowed the Council and NMFS to compare the amount of retained skate catch that would be likely under these alternative MRAs (see Section 4.5.1.4 of the Analysis).

Results from the model indicate that as the MRA becomes more restrictive, the incentive for vessel operators to engage in top-off fishing is reduced and overall skate catch may be reduced as fishermen avoid areas where skates are encountered. The model estimated that a reduction in the skate MRA ranging from 20 percent to 10 percent would have relatively limited impacts on the amount of GOA skates that are retained relative to the current 20 percent MRA. Therefore, NMFS expects reducing the MRA to 15 or 10 percent would not result in a significantly lower catch rate of GOA skates. The model indicates that reducing the skate MRA below 10 percent would be expected to result in more limited top-off fishing and lower overall catch of skates. The model indicates that a 5 percent MRA would best ensure that NMFS did not have to prohibit the retention of skates and that skate TACs would not be exceeded.

In December 2014, following public comment and input from its advisory

bodies, the Council unanimously recommended reducing the MRA for skates from 20 percent to 5 percent for all basis species in the GOA. Overall, reducing the skate MRA would primarily affect vessel operators who retained big skate at an amount greater than 5 percent of their basis species in the Central GOA. Reducing the skate MRA to 5 percent would have the greatest effect on vessels retaining big skates in the Central GOA because big skate catches have consistently exceeded the big skate TAC in the Central GOA, and data indicate that vessel operators can and do engage in topping-off for big skates. This proposed rule would have a relatively limited impact on vessel retention of longnose and other skates given these species have not been found to congregate like big skates and are not currently subject to the same patterns of top-off fishing. This proposed rule is not likely to have significant impacts on the conservation or management of groundfish or halibut in the GOA because this proposed rule would only limit the amount of skates that may be retained.

This proposed rule would affect all catcher vessels and catcher/processors directed fishing for groundfish and halibut in the GOA that may harvest any species of skate. Section 4.6.1.1 of the Analysis estimates the annual revenue at risk for all catcher vessels and catcher/processors that could be affected by this proposed rule at $2.4 million. However, the impact relative to each vessel that retains skates in the GOA is quite small. Analysis of the gross revenue data for vessels that retained GOA skates indicates that from 2008 through 2013 the average percentage of annual gross revenue derived from skate catch by catcher vessels ranged between 0.7 percent and 1.28 percent of their total annual gross revenue; the average percentage of annual gross revenue derived from skate catch by catcher/processors ranged between 0.26 percent and 0.77 percent of their total annual gross revenue (see Section 4.6.1.1 of the Analysis). In general, vessels that catch and retain skates show relatively little dependence on GOA skates for their gross revenues. The actual impact on gross revenue for a specific vessel may vary from year to year depending on the total abundance of skates, total catch of skates, market conditions, and ex-vessel price. Section 4.5.1.4 of the Analysis describes the effect of the 5 percent MRA on specific vessel operations in greater detail.

The impact of this proposed rule on communities is discussed in Section 4.6.2 of the Analysis. Impacts would be most pronounced on Kodiak, AK, where, from 2008 through 2014, 87 percent to 93 percent of skates retained by catcher vessels were delivered. Kodiak accounted for between 84 percent and 91 percent of the first wholesale value of shoreside skate processing in Alaska, which ranged between $3.2 and $5.1 million annually. Skates accounted for between 0.98 percent and 1.38 percent of the first wholesale value of production at Kodiak.

Although this proposed rule could limit the total amount of skates delivered, it is also possible that skate deliveries would continue under the 5 percent MRA, but would be distributed throughout the year provided a TAC limit is not reached. Therefore, the impact on total landings on any community may be limited. Communities in the State of Alaska where skates and processed skate products are landed may realize lower tax revenues from the State of Alaska Fisheries Business Tax and Fishery Resource Landing Tax, but only if total skate landings decline.

Proposed Rule

This proposed rule would make four changes to the regulations. First, this proposed rule would revise skate MRAs in Table 10 to 50 CFR part 679, Gulf of Alaska Retainable Percentages, and in Table 30 to 50 CFR part 679, Rockfish Program Retainable Percentages. NMFS would reduce the incidental catch species MRAs for skates for each basis species listed in Tables 10 and 30 from 20 percent to 5 percent. NMFS notes the basis species termed ''Aggregated amount of non-groundfish species'' includes all legally retained IFQ halibut as explained in footnote 12 to Table 10. If the proposed reductions in skate MRAs are approved, then skate MRAs would be set equal to 5 percent in Tables 10 and 30 on the effective date of the final rule.

Second, this proposed rule would correct two regulatory cross-reference errors. These errors resulted from reorganizing and renumbering the Federal Fisheries Permit requirements in § 679.4(b) and were implemented in a final rule published on October 21, 2014 (79 FR 62885). Current regulations at § 679.7(a)(18) and § 679.28(f)(6)(i) incorrectly refer to the FFP requirements at § 679.4(b)(5)(vi), a paragraph that no longer exists. This proposed rule would correct those cross references to § 679.4(b).

Third, this proposed rule would modify regulatory text to clarify that a vessel fishing under a Rockfish Program cooperative quota (CQ) permit may harvest groundfish species not allocated as CQ up to the MRA for that species as established in Table 30 to 50 CFR part 679. This proposed rule would remove the last sentence in regulations at § 679.20(f)(2), because the sentence makes an incorrect statement. The heading in the last column in Table 30 correctly states that the MRA for vessels fishing under the Rockfish Program is calculated as ''a percentage of total retained rockfish primary species and rockfish secondary species''. This proposed rule would correct this discrepancy by removing the last sentence of § 679.20(f)(2). The current regulations at § 679.81(h)(4)(i) and (h)(5) use the term ''incidental catch species'' in the calculation of an MRA to refer to ''groundfish species not allocated as cooperative quota (CQ).'' This proposed rule would add the referenced text to § 679.81(h)(4)(i) and (h)(5) to ensure consistent use of terminology in the regulations.

Fourth, this proposed rule would revise Table 2a to 50 CFR part 679 to add whiteblotched, Alaska, and Aleutian skates, as well as the scientific names for individual skate species. Adding these individual skate species and the scientific names would facilitate the reporting of individual skate species taken during groundfish harvest and provides more detailed information regarding skate harvests for stock assessments and fisheries management. This revision would support managing skates as a target species group or as individual target species. These skate species and scientific names were added to Table 2a in final regulations implementing changes to groundfish management in the BSAI and GOA on October 6, 2010 (75 FR 61639). Subsequent regulations published on July 11, 2011 (76 FR 40628), amended Table 2a to 50 CFR part 679 and that revision inadvertently removed the skate species codes implemented on October 6, 2010. The proposed addition of these skate species and scientific names would correct this error that was noticed during the preparation of this proposed rule. The proposed addition of species codes does not change the management of skates or the other provisions of this proposed rule.

Classification

Pursuant to sections 304 (b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Initial Regulatory Flexibility Analysis

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the Analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows. A description of the proposed rule, why it is being considered, and the legal basis for this proposed rule are contained elsewhere in the preamble, and are not repeated here.

This proposed rule, a reduction in GOA skate MRAs, directly regulates all entities fishing for groundfish and halibut in the GOA that have the potential to catch any species of skate. These entities operate vessels that are directly regulated by the GOA groundfish harvest specifications.

On June 12, 2014, the Small Business Administration issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The rule increased the size standard for Finfish Fishing from $19.0 million to $20.5 million. The new size standards were used to prepare the IRFA for this proposed rule.

The IRFA estimates that this proposed rule would directly regulate 1,153 small entities. Of these small entities, the IRFA estimates that this proposed rule would directly regulate 1,073 small catcher vessels fishing with hook-and-line gear (including jig gear), 116 small catcher vessels fishing with pot gear, and 32 small catcher vessels fishing with trawl gear. In addition, this proposed rule would directly regulate 2 small catcher/processors fishing with hook-and-line gear, and one small catcher/processor fishing with trawl gear. Specific revenue data for these small catcher/processors are confidential but are less than $20.5 million annually. The IRFA estimates that the average gross revenues for 2013 (the most recent year of complete revenue data) are $380,000 for small hook-and-line catcher vessels, $960,000 for small pot catcher vessels, and $2.8 million for small trawl catcher vessels.

This proposed rule does not create new recordkeeping and reporting requirements, or alter existing requirements.

The IRFA prepared for this proposed rule has not identified Federal rules that duplicate, overlap, or conflict with the preferred alternative (a 5 percent MRA).

An IRFA should include a description of any significant alternatives to the proposed rule that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize the significant economic impact of the proposed rule on small entities.

The Council and NMFS considered four alternatives in the development of this proposed rule. This proposed rule would implement Alternative 4, a 5 percent skate MRA. The significant alternatives to this proposed rule are Alternatives 1, 2, and 3, a 20 percent, 15 percent, and 10 percent skate MRA, respectively. As discussed in Section 4.7 and 4.8 of the Analysis, these proposed alternatives are not expected to reduce the incentive for fishermen to target and retain skates and thus, would not accomplish the objectives of this proposed rule—to slow the harvest rate of skates that may be incidentally retained to ensure that the TACs for skate species are not exceeded. The Analysis did not identify any other alternatives that would more effectively meet the RFA criteria to minimize adverse economic impacts on directly regulated small entities.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: July 7, 2015.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.7, revise paragraph (a)(18) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(18) *Pollock, Pacific Cod, and Atka Mackerel Directed Fishing and VMS.* Operate a vessel in any Federal reporting area when a vessel is authorized under § 679.4(b) to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries and the vessel's authorized species and gear type is open to directed fishing, unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) and complies with the requirements in § 679.28(f).

* * * * *

■ 3. In § 679.20, revise paragraph (f)(2) to read as follows:

§ 679.20 General limitations.

* * * * *

(f) * * *

(2) *Retainable amounts.* Any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. Only fish harvested under the CDQ Program may be used to calculate retainable amounts of other CDQ species.

* * * * *

■ 4. In § 679.28, revise paragraph (f)(6)(i) to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(f) * * *

(6) * * *

(i) You operate a vessel in any reporting area (see definitions at § 679.2) off Alaska while any fishery requiring VMS, for which the vessel has a species and gear endorsement on its Federal Fisheries Permit under § 679.4(b), is open.

* * * * *

■ 5. In § 679.81, revise paragraphs (h)(4)(i) and (h)(5) introductory text to read as follows:

§ 679.81 Rockfish Program annual harvester privileges.

* * * * *

(h) * * *

(4) * * *

(i) The MRA for groundfish species not allocated as CQ (incidental catch species) for vessels fishing under the authority of a CQ permit is calculated as a proportion of the total allocated rockfish primary species and rockfish secondary species on board the vessel in round weight equivalents using the retainable percentage in Table 30 to this part; except that—

* * * * *

(5) *Maximum retainable amount (MRA) calculation and limits—catcher/processor vessels.* The MRA for groundfish species not allocated as CQ (incidental catch species) for vessels fishing under the authority of a CQ permit is calculated as a proportion of the total allocated rockfish primary species and rockfish secondary species on board the vessel in round weight equivalents using the retainable percentage in Table 30 to this part as determined under § 679.20(e)(3)(iv).

* * * * *

■ 6. Revise Table 2a to part 679 to read as follows:

TABLE 2A TO PART 679—SPECIES CODES: FMP GROUNDFISH

Species description	Code
Atka mackerel (greenling)	193
Flatfish, miscellaneous (flatfish species without separate codes)	120
FLOUNDER:	
Alaska plaice	133
Arrowtooth	121
Bering	116
Kamchatka	117
Starry	129
Octopus, North Pacific	870
Pacific cod	110
Pollock	270
ROCKFISH:	
Aurora (*Sebastes aurora*)	185
Black (BSAI) (*S. melanops*)	142
Blackgill (*S. melanostomus*)	177
Blue (BSAI) (*S. mystinus*)	167
Bocaccio (*S. paucispinis*)	137
Canary (*S. pinniger*)	146
Chilipepper (*S. goodei*)	178
China (*S. nebulosus*)	149
Copper (*S. caurinus*)	138
Darkblotched (*S. crameri*)	159
Dusky (*S. variabilis*)	172
Greenstriped (*S. elongatus*)	135
Harlequin (*S. variegatus*)	176
Northern (*S. polyspinis*)	136
Pacific Ocean Perch (*S. alutus*)	141
Pygmy (*S. wilsoni*)	179
Quillback (*S. maliger*)	147
Redbanded (*S. babcocki*)	153
Redstripe (*S. proriger*)	158
Rosethorn (*S. helvomaculatus*)	150
Rougheye (*S. aleutianus*)	151
Sharpchin (*S. zacentrus*)	166
Shortbelly (*S. jordani*)	181
Shortraker (*S. borealis*)	152
Silvergray (*S. brevispinis*)	157
Splitnose (*S. diploproa*)	182
Stripetail (*S. saxicola*)	183
Thornyhead (all *Sebastolobus* species)	143
Tiger (*S. nigrocinctus*)	148
Vermilion (*S. miniatus*)	184
Widow (*S. entomelas*)	156
Yelloweye (*S. ruberrimus*)	145
Yellowmouth (*S. reedi*)	175
Yellowtail (*S. flavidus*)	155
Sablefish (blackcod)	710
Sculpins	160
SHARKS:	
Other (if salmon, spiny dogfish or Pacific sleeper shark—use specific species code)	689
Pacific sleeper	692
Salmon	690
Spiny dogfish	691
SKATES:	
Whiteblotched (*Bathyraja maculata*)	705
Aleutian (*B. aleutica*)	704
Alaska (*B. parmifera*)	703
Big (*Raja binoculata*)	702
Longnose (*R. rhina*)	701
Other (if Whiteblotched, Aleutian, Alaska, Big or Longnose skate—use specific species code listed above)	700
SOLE:	
Butter	126
Dover	124
English	128
Flathead	122
Petrale	131
Rex	125
Rock	123
Sand	132
Yellowfin	127
Squid, majestic	875
Turbot, Greenland	134

■ 7. Revise Table 10 to part 679 to read as follows:

Table 10 to Part 679—Gulf of Alaska Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6])															
Code	Species	Pollock	Pacific cod	DW Flat (2)	Rex sole	Flathead sole	SW Flat (3)	Arrow-tooth	Sablefish	Aggregated rockfish[8]	SR/RE ERA (1)	DSR SEO (C/Ps only) (6)	Atka mackerel	Aggregated forage fish[10]	Skates (11)	Other species (7)	Grenadiers (13)
110	Pacific cod	20	n/a[9]	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	5	20	8
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	5	20	8
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	5	20	8
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8
152/ 151	Shortraker/ rougheye (1)	20	20	20	20	20	20	35	7	15	n/a	1	20	2	5	20	8
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	n/a	2	5	20	8
270	Pollock	n/a	20	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	5	20	8
Flatfish, deep-water[2]		20	20	n/a	20	20	20	35	7	15	7	1	20	2	5	20	8
Flatfish, shallow-water[3]		20	20	20	20	20	n/a	35	1	5	(1)	10	20	2	5	20	8
Rockfish, other (4)		20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8
Rockfish, pelagic (5)		20	20	20	20	20	20	35	7	15	7	1	20	2	5	20	8
Rockfish, DSR-SEO (6)		20	20	20	20	20	20	35	7	15	7	n/a	20	2	5	20	8
Skates[11]		20	20	20	20	20	20	35	1	5	(1)	10	20	2	n/a	20	8
Other species (7)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	5	n/a	8
Aggregated amount of non-groundfish species[12]		20	20	20	20	20	20	35	1	5	(1)	10	20	2	5	20	8

Notes to Table 10 to Part 679						
1	Shortraker/rougheye rockfish					
		SR/RE	Shortraker rockfish (152)			
			Rougheye rockfish (151)			
		SR/RE ERA	Shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).			
	Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish					
2	Deep-water flatfish	Dover sole, Greenland turbot, and deep-sea sole				
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder				
4	Other rockfish	Western Regulatory Area	means slope rockfish and demersal shelf rockfish			
		Central Regulatory Area				
		West Yakutat District				
		Southeast Outside District	means slope rockfish			
		Slope rockfish				
		S. aurora (aurora)	*S. variegates* (harlequin)		*S. brevispinis* (silvergrey)	
		S. melanostomus (blackgill)	*S. wilsoni* (pygmy)		*S. diploproa* (splitnose)	
		S. paucispinis (bocaccio)	*S. babcocki* (redbanded)		*S. saxicola* (stripetail)	
		S. goodei (chilipepper)	*S. proriger* (redstripe)		*S. miniatus* (vermilion)	
		S. crameri (darkblotch)	*S. zacentrus* (sharpchin)		*S. reedi* (yellowmouth)	
		S. elongatus (greenstriped)	*S. jordani* (shortbelly)			
		In the Eastern GOA only, Slope rockfish also includes *S. polyspinis* (northern)				
5	Pelagic shelf rockfish	*S. variabilis* (dusky)	*S. entomelas* (widow)		*S. flavidus* (yellowtail)	
6	Demersal shelf rockfish (DSR)	*S. pinniger* (canary)	*S. maliger* (quillback)		*S. ruberrimus* (yelloweye)	
		S. nebulosus (china)	*S. helvomaculatus* (rosethorn)			
		S. caurinus (copper)	*S. nigrocinctus* (tiger)			
		DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO)(see § 679.7(b)(4) and § 679.20(j)).				
7	Other species	Sculpins	Octopus	Sharks	Squid	
8	Aggregated rockfish	Means rockfish as defined at § 679.2 except in:				
		Southeast Outside District	where DSR is a separate category for those species marked with a numerical percentage			
		Eastern Regulatory Area	where SR/RE is a separate category for those species marked with a numerical percentage			

Notes to Table 10 to Part 679			
9	n/a	Not applicable	
10	Aggregated forage fish (all species of the following taxa)		
		Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
		Capelin smelt (family *Osmeridae*)	516
		Deep-sea smelts (family *Bathylagidae*)	773
		Eulachon smelt (family *Osmeridae*)	511
		Gunnels (family *Pholidae*)	207
		Krill (order *Euphausiacea*)	800
		Laternfishes (family *Myctophidae*)	772
		Pacific Sand fish (family *Trichodontidae*)	206
		Pacific Sand lance (family *Ammodytidae*)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
		Surf smelt (family *Osmeridae*)	515
11	Skates Species and Groups	Big Skates (*Raja binoculata*)	702
		Longnose Skates (*R. rhina*)	701
		Other Skates (all skates that are not Big Skate or Longnose Skate)	700
12	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	
13	Grenadiers	Giant grenadiers (*Albatrossia pectoralis*)	214
		Other grenadiers	213

■ 8. Revise Table 30 to part 679 to read as follows:

TABLE 30 TO PART 679—ROCKFISH PROGRAM RETAINABLE PERCENTAGES

[In round wt. equivalent]

Fishery	Incidental catch species	Sector	MRA as a percentage of total retained rockfish primary species and rockfish secondary species
Rockfish Cooperative Vessels fishing under a CQ permit.	Pacific cod	Catcher/Processor	4.0
	Shortraker/Rougheye aggregate catch.	Catcher Vessel	2.0
	See rockfish non-allocated species for "other species"		
Rockfish non-allocated Species for Rockfish Cooperative vessels fishing under a Rockfish CQ permit.	Pollock	Catcher/Processor and Catcher Vessel	20.0
	Deep-water flatfish	Catcher/Processor and Catcher Vessel	20.0
	Rex sole	Catcher/Processor and Catcher Vessel	20.0
	Flathead sole	Catcher/Processor and Catcher Vessel	20.0
	Shallow-water flatfish	Catcher/Processor and Catcher Vessel	20.0
	Arrowtooth flounder	Catcher/Processor and Catcher Vessel	35.0
	Other rockfish	Catcher/Processor and Catcher Vessel	15.0
	Atka mackerel	Catcher/Processor and Catcher Vessel	20.0
	Aggregated forage fish	Catcher/Processor and Catcher Vessel	2.0
	Skates	Catcher/Processor and Catcher Vessel	5.0
	Other species	Catcher/Processor and Catcher Vessel	20.0
Longline gear Rockfish Entry Level Fishery	See Table 10 to this part.		
Opt-out vessels	See Table 10 to this part.		
Rockfish Cooperative Vessels not fishing under a CQ permit.	See Table 10 to this part.		

[FR Doc. 2015–16935 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 132
Friday, July 10, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–15–0025; FV15–996–1]

Peanut Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for nominations.

SUMMARY: The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) requires the Secretary of Agriculture to establish a Peanut Standards Board (Board) for the purpose of advising the Secretary on quality and handling standards for domestically produced and imported peanuts. The initial Board was appointed by the Secretary and announced on December 5, 2002. USDA seeks nominations for individuals to be considered for selection as Board members for a term of office ending June 30, 2018. Selected nominees would replace three producers and three industry representatives who currently serve on the Board and have terms of office that end on June 30, 2015. The Board consists of 18 members representing producers and the industry. In an effort to obtain diversity among candidates, USDA encourages the nomination of men and women of all racial and ethnic groups and persons with a disability.

DATES: Written nominations must be received on or before August 24, 2015.

ADDRESSES: Nominations should be sent to Jennie M. Varela of the Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1124 1st Street South, Winter Haven, FL 33880; Telephone: (863) 324–3375; Fax: (863) 291–8614; Email: *Jennie.Varela@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1308 of the 2002 Farm Bill requires the Secretary of Agriculture to establish and consult with the Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for all domestic and imported peanuts marketed in the United States.

The 2002 Farm Bill provides that the Board's makeup will include three producers and three peanut industry representatives from states specified in each of the following producing regions: Southeast (Alabama, Georgia, and Florida); Southwest (Texas, Oklahoma, and New Mexico); and Virginia/Carolina (Virginia and North Carolina).

The term ''peanut industry representatives'' includes, but is not limited to, representatives of shellers, manufacturers, buying points, and marketing associations and marketing cooperatives. The 2002 Farm Bill exempted the appointment of the Board from the requirements of the Federal Advisory Committee Act.

USDA invites individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the Board. Nominees sought by this action would fill two positions in the Southeast region, two positions in the Southwest region, and two positions in the Virginia/North Carolina region.

Nominees should complete a Peanut Standards Board Background Information form and submit it to Jennie Varela at the address provided in the ''Addresses'' section above. Copies of this form may be obtained at the internet site *http://www.ams.usda.gov/PeanutStandardsBoard,* or from the Southeast Marketing Field Office. USDA seeks a diverse group of members to represent the peanut industry.

Equal opportunity practices will be followed in all appointments to the Board in accordance with USDA policies. To ensure that the recommendations of the Board have taken into account the needs of the diverse groups within the peanut industry, membership shall include, to the extent practicable, individuals with demonstrated abilities to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Authority: 7 U.S.C. 7958.

Dated: July 7, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–16899 Filed 7–9–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document No. AMS–ST–15–0024]

Plant Variety Protection Board; Open Teleconference Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the Agricultural Marketing Service (AMS) is announcing a meeting of the Plant Variety Protection Board (Board). The meeting is being held to discuss a variety of topics including, but not limited to, work and outreach plans, subcommittee activities, and proposals for procedure changes. The meeting is open to the public. This notice sets forth the schedule and location for the meeting.

DATES: Thursday, August 6, 2015, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: The Board meeting will be held at the United States Department of Agriculture, Room 3543, South Building, 1400 Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Maria Pratt, Program Analyst, U.S. Department of Agriculture (USDA), AMS, Science and Technology Programs, 1400 Independence Avenue SW., Washington, DC 20250. Telephone: (202) 720–1104; Fax: (202) 260–8976, or Email: *maria.pratt@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 10(a) of the FACA (5 U.S.C., Appendix 2), this notice informs the public that the Plant Variety Protection Office (PVPO) is having a Board meeting earlier than the 15 day requirement of the FACA. The Plant Variety Protection Act (PVPA) (7 U.S.C. 2321 *et seq.*) provides legal protection in the form of intellectual property rights to developers of new varieties of plants, which are reproduced sexually by seed or are tuber-propagated. A Certificate of Plant Variety Protection (PVP) is awarded to an owner of a crop variety after an examination shows that it is new, distinct from other varieties, genetically uniform and stable through successive generations. The term of protection is 20 years for most crops and 25 years for trees, shrubs, and vines. The PVPA also

provides for a statutory Board (7 U.S.C. 2327). The PVPA Board is composed of 14 individuals who are experts in various areas of development and represent the private or seed industry sector, academia and government. The duties of the Board are to: (1) Advise the Secretary concerning the adoption of rules and regulations to facilitate the proper administration of the PVPA; (2) provide advisory counsel to the Secretary on appeals concerning decisions on applications by the PVP Office and on requests for emergency public-interest compulsory licenses; and (3) advise the Secretary on any other matters under the Regulations and Rules of Practice and on all questions under Section 44 of the PVPA, ''Public Interest in Wide Usage'' (7 U.S.C. 2404).

The purpose of the meeting will be to discuss the PVPO's 2015 achievements, the electronic application system, the reports of the subcommittees to change PVP forms and to evaluate molecular techniques for PVP distinctness characterization, and PVP cooperation with other countries.

Agenda Items: The agenda will include, welcome and introductions, discussions on program activities that encourage the development of new plant varieties and also address appeals to the Secretary. There will be presentations on 2015 accomplishments, the electronic PVP application system, proposed changes to PVP forms, the use of molecular markers for PVP applications, and PVP cooperation with other countries. The meeting will be open to the public. Those wishing to participate are encouraged to pre-register by July 30, 2015 by contacting Maria Pratt, Program Analyst; Telephone: (202) 720–1104; Email: *maria.pratt@ams.usda.gov.*

Meeting Accommodation: If you need a reasonable accommodation to participate in this public meeting, please notify Maria Pratt at: Email: *maria.pratt@ams.usda.gov* or (202) 720–1104. Determinations for reasonable accommodation will be made on a case-by-case basis. Minutes of the meeting will be available for public review 30 days following the meeting at the internet Web site *http://www.ams.usda.gov/PVPO.*

Dated: July 7, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–16900 Filed 7–9–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

National Stakeholder Forum—Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of a public meeting.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within USDA Rural Development, is holding a forum to introduce the new ''Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program'' (Section 9003 Program), formerly the Biorefinery Assistance Program (BAP), as found in the new regulation and the Notice of Solicitation of Applications (NOSA). Major changes to the Section 9003 Program include the addition of renewable chemicals and biobased product manufacturing to the program area and a two-phase application process to streamline the application process and limit the expense to applicants.

Speakers from the Agency will discuss the changes to the 9003 Program in order to educate applicants on changes to program eligibility and the new application process. The National Stakeholder Forum can be attended via webinar or in person.

DATES:

National Stakeholder Forum: The National Stakeholder Forum will be held on Thursday, July 16, 2015, from 12:30 p.m. to 2:30 p.m. Eastern Daylight Time.

Registration: It is requested that you register by 12 p.m. Eastern Daylight Time July 14, 2015, to attend the forum in person. See the Instructions for Attending the Meeting section of this notice for additional information. If you wish to participate via webinar, you must register for the webinar at *http://www.webcaster4.com/Webcast/Page/789/9401* prior to or during the webinar.

ADDRESSES: The National Stakeholder Forum will take place in Room 107–A of the Whitten Building on 1400 Jefferson Drive SW., located between 12th and 14th streets SW., in Washington DC 20250.

FOR FURTHER INFORMATION CONTACT: Todd Hubbell, Rural Business-Cooperative Service, Room 6865, 1400 Independence Avenue SW., Washington, DC 20250, Telephone: (202) 690–2516. Email: *Todd.Hubbell@wdc.usda.gov.* Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: Section 9003 of the 2008 Farm Bill authorized the Agency to provide loan guarantees for the construction of advanced biofuel biorefineries under the Biorefinery Assistance Program (often referred to as the Section 9003 Program). The 2014 Farm Bill modified the provisions associated with the Section 9003 Program. In response to the 2014 Farm Bill, the Agency published a new interim rule for the program, now entitled the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program. This interim final rule was published in the **Federal Register** on June 24, 2015 (*https://www.federalregister.gov/articles/2015/06/24/2015–14989/biorefinery-renewable-chemical-and-biobased-product-manufacturing-assistance-program*).

In order to familiarize the public with the new Section 9003 Program rule, representatives from the U.S. Department of Agriculture (USDA) are conducting this National Stakeholder Forum. Discussion points will include the expansion of the program to include renewable chemicals and biobased product manufacturing and the new two-phase application process. Participants will be afforded the opportunity to ask questions on the material in the presentation through the webinar software or in person.

Date: July 16, 2015.

Time: 12:30 p.m.–2:30 p.m., Eastern Daylight Time.

Location information: USDA Whitten Building, 1400 Jefferson Drive SW., Room 107–A, Washington, DC 20250.

Instructions for Attending the Meeting

Space for attendance at the meeting is limited. Due to USDA headquarters security and space requirements, all persons wishing to attend the forum in person must send an email to *energydivision@wdc.usda.gov* by 12 p.m. Eastern Daylight Time July 14, 2015, to register the names of those planning to attend. Registrations will be accepted until maximum room capacity is reached. Seating will be available on a first come, first serve basis.

To register, provide the following information:

- First and Last Names
- Organization
- Title
- Email
- City, State

Upon arrival at the USDA Whitten Building, registered persons must

provide valid photo identification in order to enter the building; visitors need to enter the Whitten Building on the mall side. Please allow extra time to get through security.

USDA Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because of all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing, or have speech disabilities and you wish to file a program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: July 2, 2015.

Samuel Rikkers,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2015–16757 Filed 7–9–15; 8:45 am]

BILLING CODE 3410–XX–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee To Discuss Findings Regarding Equity in School Funding and Plan Police Community Relations Public Meeting

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Arizona Advisory Committee (Committee) to the Commission will be held on Wednesday, July 29, 2015. The meeting has two purposes: (1) To receive and discuss a recommendation from the education sub-committee regarding Committee findings on equity in school spending, and (2) discuss and plan the Committee's public meeting on police and community relations. The meeting will be held at Chicanos por la Causa, 1242 E. Washington Street, Suite 200, Phoenix, AZ 85034. It is scheduled to begin at 3:00 p.m. and adjourn at approximately 4:30 p.m.

Members of the public are entitled to make comments in the open period at the end of the meeting. Members of the public may also submit written comments. The comments must be received in the Western Regional Office of the Commission by July 30, 2015. The address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Persons wishing to email their comments may do so by sending them to Angelica Trevino, Civil Rights Analyst, Western Regional Office, at *atrevino@usccr.gov.* Persons who desire additional information should contact the Western Regional Office, at (213) 894–3437, (or for hearing impaired TDD 913–551–1414), or by email to *atrevino@usccr.gov.* Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=235* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Western Regional Office at the above email or street address.

AGENDA:

Discuss Committee findings on equity in public school funding

Discuss plan for public meeting on police and community relations

Open Comment Adjournment

DATES: Wednesday, July 29, 2015 from 3 p.m. to 4:30 p.m. PST

ADDRESSES: Chicanos por la Causa, 1242 E. Washington Street, Suite 200, Phoenix, AZ 85034

FOR FURTHER INFORMATION CONTACT: Peter Minarik, DFO, at (213) 894–3437 or *pminarik@usccr.gov.*

Dated: July 7, 2015.

David Mussatt,

Chief, Regional Programs Coordination Unit.

[FR Doc. 2015–16864 Filed 7–9–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–59–2015]

Approval of Subzone Status, Syngenta Crop Protection LLC, St. Gabriel and Baton Rouge, Louisiana

On April 27, 2015, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Greater Baton Rouge Port Commission, grantee of FTZ 154, requesting subzone status subject to the existing activation limit of FTZ 154 on behalf of Syngenta Crop Protection LLC in St. Gabriel and Baton Rouge, Louisiana.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 24896, 5/1/2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 154B is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 154's 2,000-acre activation limit.

Dated: July 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–16928 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order

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

DATES: *Effective Date:* July 10, 2015.

SUMMARY: As a result of this sunset review, the Department of Commerce (Department) finds that revocation of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC) would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margins likely to prevail is indicated in the ''Final Results of Sunset Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on hand trucks from the PRC was published on December 2, 2004.[1] On March 2, 2015, the Department published the notice of initiation of the sunset review of the antidumping duty order on hand trucks from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

In accordance with 19 CFR 351.218(d)(1)(i) and (ii), the Department received a notice of intent to participate in this sunset review from Gleason Industrial Products, Inc. and Precision Products, Inc. (collectively, Petitioners), within 15 days after the date of publication of the *Sunset Initiation.* Petitioners claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product.

On March 26, 2015, the Department received a complete substantive response to the notice of initiation from Petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no substantive response from any respondent interested parties. As a result, the Department conducted an expedited, *i.e.,* 120-day, sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Order

The merchandise subject to the order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.50.90 and 8716.90.50.60. 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 for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Hand Trucks and Certain Parts Thereof from the People's Republic of China,'' dated concurrently with and hereby adopted by this notice (Decision Memorandum).

Analysis of Comments Received

All issues raised in this review are addressed in the Decision Memorandum, including the likelihood of continuation or recurrence of dumping in the event of revocation, and the magnitude of dumping margins likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Decision Memorandum, which 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* and is available to all parties in the Central Records Unit in room B8024 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/.* The signed and electronic versions of the Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on hand trucks from the PRC would be likely to lead to continuation or recurrence of dumping at weighted-average margins up to 383.60 percent.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: June 30, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–16932 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China,* 69 FR 70122 (December 2, 2004).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 80 FR 11164 (March 2, 2015) (*Sunset Initiation*).

DEPARTMENT OF COMMERCE

International Trade Administration

Civil Nuclear Trade Advisory Committee (CINTAC) Meeting

AGENCY: ITA, DOC.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the CINTAC.

DATES: The meeting is scheduled for Thursday, July 23, 2015, from 9:00 a.m. to 4:00 p.m. Eastern Standard Time (EST). The public session is from 3:00 p.m.–4:00p.m.

ADDRESSES: The meeting will be held in Room 4830, U.S. Department of Commerce, Herbert Clark Hoover Building, 1401 Constitution Ave. NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, ITA, Room 4053, 1401 Constitution Ave. NW., Washington, DC 20230. (Phone: 202–482–1297; Fax: 202–482–5665; email: *jonathan.chesebro@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

Topics to be considered: The agenda for the Thursday, July 23, 2015 CINTAC meeting is as follows:

Closed Session (9:00 a.m.–3:00 p.m.)

1. Discussion of matters determined to be exempt from the provisions of the Federal Advisory Committee Act relating to public meetings found in 5 U.S.C. App. (10)(a)(1) and 10(a)(3).

Public Session (3:00 p.m.–4:00 p.m.)

1. International Trade Administration's Civil Nuclear Trade Initiative Update.

2. Civil Nuclear Trade Promotion Activities Discussion.

3. Public comment period.

The meeting will be disabled-accessible. Public seating is limited and available on a first-come, first-served basis. Members of the public wishing to attend the meeting must notify Mr. Jonathan Chesebro at the contact information below by 5:00 p.m. EDT on Friday, July 17, 2015 in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

A limited amount of time will be available for pertinent brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Chesebro and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EDT on Friday, July 17, 2015. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, ITA may conduct a lottery to determine the speakers. Speakers are requested to bring at least 20 copies of their oral comments for distribution to the participants and public at the meeting.

Any member of the public may submit pertinent written comments concerning the CINTAC's affairs at any time before and after the meeting. Comments may be submitted to the Civil Nuclear Trade Advisory Committee, Office of Energy & Environmental Industries, Room 4053, 1401 Constitution Ave. NW., Washington, DC 20230. For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EDT on Friday, July 17, 2015. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Man Cho,

Acting Director, Office of Energy and Environmental Industries.

[FR Doc. 2015–16930 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No: 150623548–5548–01]

Guidance on MBDA Applications for Federal Funding; Correction

AGENCY: Minority Business Development Agency, Department of Commerce.

ACTION: Notice of public meeting; correction.

SUMMARY: The Minority Business Development Agency (MBDA) published a notice in the **Federal Register** of July 1, 2015, a document announcing a public meeting to be held during the MBDA National Training Conference on July 23, 2015 from 1:00 p.m. to 3:30 p.m. Eastern Standard Time (EST). The document contained an incorrect time.

FOR FURTHER INFORMATION CONTACT: For additional information please contact: Ms. Nakita Y. Chambers, Program Manager, Telephone (202) 482–0065, email *nchambers@mbda.gov.*

Correction

In the **Federal Register** of July 1, 2015 in FR Doc. 2015–16188, on page 37597, in the third column, correct the **DATES** caption to read:

DATES: The public meeting will be held on Thursday, July 23, 2015; 1:00 p.m.–3:30 p.m. CDT. The meeting will be available via webinar. Please submit your written questions to Nakita Y. Chambers (*See* **FOR FURTHER INFORMATION CONTACT**) no later than July 10, 2015.

Dated: July 6, 2015.

Josephine Arnold,

Chief Counsel.

[FR Doc. 2015–16836 Filed 7–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC014

Marine Mammals; File No. 17670

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that the NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543 (Responsible Party: William Karp, Ph.D.), has applied for an amendment to Scientific Research Permit No. 17670–02.

DATES: Written, telefaxed, or email comments must be received on or before August 10, 2015.

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

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1 Comments@noaa.gov.* Please include File No. 17670 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 17670–02 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 17670–00 issued on April 11, 2013 (77 FR 64959), authorized the permit holder to take gray (*Halichoerus grypus*), harbor (*Phoca vitulina*),, harp (*Pagophilus groenlandicus*), and hooded (*Cystophora cristata*) seals in waters within or proximal to the U.S. EEZ from North Carolina northward to Maine, during conduct of stock assessment research, including estimation of distribution and abundance, determination of stock structure, habitat requirements, foraging ecology, health assessment and effects of natural and anthropogenic factors. Types of take include harassment during shipboard, skiff, and aircraft transect and photo-identification surveys, and scat collection; and, capture with tissue sampling and instrument or tag attachment. A limited number of research-related mortality is also allowed, as well as world-wide import and export of pinniped samples. The permit was amended on two occasions via minor amendments: Permit No. 17670–01 authorized sampling of pinniped carcasses aboard commercial fishing vessels; and, Permit No. 17670–02 authorized nail clipping and fecal loop sampling during permitted captures.

The permit holder is requesting the permit be amended to include authorization to (1) increase the number of gray and harbor seals harassed annually during research; (2) add use of unmanned aircraft systems to survey seals; (3) increase the number of gray and harbor seals captured and handled for sampling and instrumentation, and increase the frequency of sampling; (4) increase the number of biopsy samples (from one to two) taken during sampling; (5) add harassment from photo-identification of gray seals to study pup molting; (6) increase the number of gray and harbor seal samples imported/exported annually; (7) increase unintentional mortality including via euthanasia in the event sick or injured seals are inadvertently captured. Take numbers are enumerated in the amendment request take tables.

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

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 7, 2015.

Julia Harrison,

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

[FR Doc. 2015–16911 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD953

Marine Mammals; File No. 19108

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA 95064, to conduct research on northern elephant seals (*Mirounga angustirostris*) throughout their range in the U.S.

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

FOR FURTHER INFORMATION CONTACT: Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On May 27, 2015, notice was published in the **Federal Register** (80 FR 30212) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 19108 authorizes continued research on northern elephant seal population status, reproduction, diving and fasting, physiology, and metabolism. Research methods include behavioral observations, marking, capture and sampling, instrumentation, translocation, short-term captive holding, physiology studies, and acoustic studies. Research is permitted from California to Washington, but occurs primarily at Año Nuevo. Incidental harassment and mortalities of northern elephant seals, and incidental harassment of California sea lions (*Zalophus californianus*), northern fur seals (*Callorhinus ursinus*), and Steller sea lions (*Eumetopias jubatus*) of the Eastern Distinct Population Segment is authorized. The permit expires June 30, 2020.

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

Dated: July 7, 2015.

Julia Harrison,

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

[FR Doc. 2015–16914 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD939

Marine Mammals; File No. 19526

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Adam White, BBC Natural History Unit, The Limes, Lea, Malmesbury Wiltshire, SN16 9PG United Kingdom, to conduct commercial or educational photography on four species of cetaceans and five species of pinnipeds.

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

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On May 15, 2015, notice was published in the

Federal Register (80 FR 27928) that a request for a permit to conduct commercial or educational photography on long-beaked common dolphins (*Delphinus capensis*), short-beaked common dolphins (*Delphinus delphis*), Risso's dolphins (*Grampus griseus*), bottlenose dolphins (*Tursiops truncatus*), harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), Northern elephant seals (*Mirounga angustirostris*), Steller sea lions (*Eumetopias jubatus*), and Northern fur seals (*Callorhinus ursinus*) had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes filming of marine mammals along the California coast from Point Año Nuevo south to the Channel Islands. Cetaceans may be filmed from boats and pole cameras. Pinnipeds may be filmed from boats, pole cameras, underwater divers, and while hauled out on land. Footage will be used for a *Big Blue Live* television series examining marine issues and conservation successes along the coast of California. The permit is valid until September 30, 2015.

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

Dated: July 7, 2015.

Julia Harrison,

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

[FR Doc. 2015–16913 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Submission of Conservation Efforts to Make Listings Unnecessary under the Endangered Species Act under the Policy for Evaluation of Conservation Efforts when Making Listing Decisions.

OMB Control Number: 0648–0466.

Form Number(s): None.

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

Number of Respondents: 3.

Average Hours per Response: 2,500 hours per agreement or plan; 320 hours to conduct monitoring for successful agreements; and 80 hours to prepare a report for successful agreements.

Burden Hours: 3,300.

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

On March 28, 2003, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (Services) announced a final policy on the criteria the Services will use to evaluate conservation efforts by states and other non-Federal entities (68 FR 15100). The Services take these efforts into account when making decisions on whether to list a species as threatened or endangered under the Endangered Species Act. The efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

Affected Public: State, local or tribal government; business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: July 7, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–16872 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD826

Marine Mammals; File No. 17967

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a permit has been issued to Minnesota Zoological Gardens (MZG), 13000 Zoo Blvd., Apple Valley, MN 55124, to conduct research on and enhancement of Hawaiian monk seals (*Neomonachus schauinslandi*) in captivity.

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

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On March 23, 2015, notice was published in the **Federal Register** (80 FR 15190) that a request for a permit to maintain the species identified for research and enhancement purposes had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The permit authorizes MZG to maintain up to eight nonreleasable Hawaiian monk seals in captivity at the MZG. Permitted research includes: (1) Annual blood samples and nasal swabs to be analyzed for presence of West Nile virus, canine distemper virus, and phocine distemper virus in seals previously vaccinated; and (2) testing various sedatives to inform use in the wild population. Seals may be used in research projects authorized under separate permits. MZG will continue public awareness on the status of the species through education and public observation of the seals. The permit expires May 1, 2020.

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

Dated: July 7, 2015.

Julia Harrison,

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

[FR Doc. 2015–16912 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of National Estuarine Research Reserve

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, National Ocean Service, Commerce.

ACTION: Notice of intent to evaluate and notice of availability of final findings.

SUMMARY: The NOAA Office for Coastal Management (OCM) announces its intent to evaluate the performance of the Guana Tolomato Matanzas (GTM) National Estuarine Research Reserve.

The National Estuarine Research Reserve evaluation will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act (CZMA) and regulations at 15 CFR part 921, subpart E and part 923, subpart L. Evaluation of a National Estuarine Research Reserve requires findings concerning the extent to which a state has met the national objectives, adhered to its Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluation will include a public meeting, consideration of written and oral public comments and consultations with interested Federal, state, and local agencies and members of the public. When the evaluation is completed, OCM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings. Notice is hereby given of the date, local time, and location of the public meeting.

DATES: The GTM National Estuarine Research Reserve public meeting will be held Wednesday, August 26, 2015, at 6:00 p.m. at the GTM NERR Environmental Education Center Auditorium, 505 Guana River Road, Ponte Vedra Beach, Florida.

ADDRESSES: Copies of the reserve's most recent performance report, as well as OCM's evaluation notification letter to the state, are available upon request from OCM. Written comments from interested parties regarding these programs are encouraged and will be accepted until September 4, 2015. Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.*

Federal Domestic Assistance Catalog 11.419

Coastal Zone Management Program Administration

Dated: July 2, 2015.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–16768 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XM26

Marine Mammals; File No. 14186

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that Sea World LLC, 9205 South Park Center Loop, Suite 400, Orlando, FL 32819 [Brad Andrews, Responsible Party] has been issued a minor amendment to Enhancement Permit No. 14186.

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

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226). Additional authorization is provided pursuant to sections 109(h) and 112(c) of the Marine Mammal Protection Act of 1972 as amended (MMPA; 16 U.S.C. 1361 *et seq.*).

The original permit (No. 14186), issued on June 17, 2010 (75 FR 36064) authorized Sea World LLC to maintain up to six (6) non-releasable stranded Guadalupe fur seals (*Arctocephalus townsendi*) through June 30, 2015. The minor amendment (No. 14186–01) authorized the acquisition of an additional non-releasable make Guadalupe fur seal (already accounted for in the take table) and extends the duration of the permit through June 30, 2016, but does not change any other terms or conditions of the permit.

Dated: July 7, 2015.

Julia Harrison,

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

[FR Doc. 2015–16915 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2015–0027]

United States Patent and Trademark Office and Japan Patent Office Collaborative Search Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is initiating a joint Work Sharing Pilot Program with the Japan Patent Office (JPO) to study whether the exchange of search results between offices for corresponding counterpart applications improves patent quality and facilitates the examination of patent applications in both offices. In the pilot program, each office will conduct a prior art search for its corresponding counterpart application and exchange the search results with the other office before

either office issues a communication concerning patentability to the applicant. As a result of this exchange of search results, the examiners in both offices may have a more comprehensive set of references before them when making their initial patentability determinations. Each office will accord special status to its counterpart application to first action. First Action Interview (FAI) pilot program procedures will be applied during the examination of the U.S. application and make the search results of record in the form of a Pre-Interview Communication.

DATES: Effective date: August 1, 2015.

Duration: Under the United States-Japan Collaborative Pilot (US-JP CSP) program, the USPTO and JPO will accept petitions to participate for two years from its effective date. During each year, the pilot program will be limited to 400 granted petitions, 200 granted petitions where USPTO performs the first search and JPO performs the second search, and 200 granted petitions where JPO performs the first search and USPTO performs the second search. The offices may extend the pilot program (with or without modification) for an additional amount of time, if necessary. The offices reserve the right to terminate the pilot program at any time.

FOR FURTHER INFORMATION CONTACT: Daniel Hunter, Director of International Work Sharing, Planning, and Implementation, Office of International Patent Cooperation, by telephone at 571–272–8050 regarding the handling of any specific application participating in the pilot. Any questions concerning this notice may be directed to Joseph Weiss, Senior Legal Advisor, Office of Patent Legal Administration, by phone 571–272–7759. Any inquiries regarding this pilot program can be emailed to *csp@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The USPTO is continually looking for ways to improve the quality of issued patents and to promote work sharing between other Intellectual Property (IP) Offices throughout the world. The USPTO has launched several work sharing pilot programs in recent years (*e.g.,* numerous Patent Prosecution Highway Pilot Programs). In furtherance of promoting interoffice work sharing, the USPTO and JPO will cooperate in a study to determine whether work sharing between IP offices by exchanging search results, where one office will have the benefit of the other office's search results before conducting a search, increases the efficiency and quality of patent examination. This exchange of search results would occur prior to making determinations regarding patentability. Work sharing benefits applicants by promoting compact prosecution, reducing pendency, and supporting patent quality by reducing the likelihood of inconsistencies in patentability determinations (not predicated upon differences in national patent laws) between IP offices when considering corresponding counterpart applications.

Currently, an application filed in the USPTO with a claim of foreign priority may have a search report and art cited by the foreign office in the priority application provided to the applicant during the U.S. application's pendency. After review of the search report and cited art, the applicant may submit an Information Disclosure Statement (IDS) in the U.S. application to provide the information to the USPTO. Often, this submission occurs after examination on the merits is already underway in the U.S. application. Upon evaluation of the search report and cited art, the U.S. examiner may determine that the art cited by the foreign office is relevant to patentability and merits further examination before making a final determination on patentability. The delay caused by further examination results in additional costs to an applicant and the USPTO that could have been avoided if the U.S. examiner was in possession of the foreign office's search results before commencing examination of the application. Furthermore, in light of the various expedited examination programs currently in place, the potential exists that a U.S. application may reach final disposition before an applicant is in receipt of a foreign office's search report. Work sharing between intellectual Property (IP) offices in the form of an exchange of search results may increase efficiency and promote patent examination quality by providing the examiner with both offices' search results when examination commences. In order to study the benefits of the exchange of search results between offices, current USPTO examination practice would need to be modified to conduct a search and generate a search report, without issuance of an Office action. The U.S. application also would need to be ''made special'' pursuant to USPTO procedures to ensure that it could be contemporaneously searched with its corresponding counterpart application.

The USPTO is using the First Action Interview Pilot Program (FAI) in this search results work sharing pilot program, because its procedure bifurcates the determination and evaluation of a prior art search from the notice of rejection. *See Full First Action Interview Pilot Program,* 1367 *Off. Gaz. Pat. Office* 42 (June 7, 2011). Under the FAI pilot program, participants receive a Pre-Interview Communication providing the results of a prior art search conducted by the examiner. Participants then have three options: (1) File a request not to conduct a first action interview; (2) submit a reply under 37 CFR 1.111 after reviewing the Pre-Interview Communication; or (3) conduct an interview with the examiner. Participants in the FAI pilot program experience many benefits including: (1) The ability to advance prosecution of an application; (2) enhanced interaction between applicant and the examiner; (3) the opportunity to resolve patentability issues one-on-one with the examiner at the beginning of the prosecution process; and (4) the opportunity to facilitate possible early allowance. The US–JP CSP program differs from the FAI pilot program procedure by requiring a Petition to Make Special for the participating application, and providing for the exchange of information with the JPO at different stages of prosecution as set forth in this notice.

The USPTO also is initiating a joint Work Sharing Pilot Program with the Korean Intellectual Property Office (KIPO). The JPO and KIPO pilot programs are different in the way that they operate. Thus, while there may be applications that are eligible for both pilot programs, such applications will not be permitted to participate in both pilot programs due to the differences in work sharing procedures of these two different programs. More information about the US–JP CSP program can be found on the USPTO's Internet Web site at: *http://www.uspto.gov/patents-getting-started/international-protection/collaborative-search-pilot-program-csp.*

II. Overview of Pilot Program Structure

An application must meet all of the requirements set forth in section III of this notice, to be accepted into this pilot program. An applicant must file via EFS-Web a Petition to Make Special using form PTO/SB/437JP in a published U.S. application. Use of the form will assist an applicant in complying with the pilot program's requirements. Form PTO/SB/437JP is available at: *http://www.uspto.gov/patents-getting-started/international-protection/collaborative-search-pilot-program-csp.* Use of this form allows the USPTO to quickly identify participating applications, facilitates timely processing in accordance with this

notice, and simplifies petition preparation and submission for an applicant. The collection of information involved in this pilot program has been submitted to OMB. The collection will be available at the OMB's Information Collection Review Web site (*www.reginfo.gov/public/do/PRAMain*).

No fee is required for submission of petitions using Form PTO/SB/437JP. The fee (currently $140.00) for a petition under 37 CFR 1.102 (other than those enumerated in 37 CFR 1.102(c)) is hereby *sua sponte* waived for petitions to make special based upon the procedure specified in this notice.

The offices will search the corresponding counterpart applications participating in the pilot program sequentially. The office of first search will be set based upon which participating counterpart application, the JPO or the U.S. application, has the earlier filing date. In the event that corresponding counterpart applications were filed on the same day, then the office of first search will be determined as agreed to by the offices. Each office may reevaluate the workload and resources needed to administer the pilot program at any time. The USPTO will provide notice of any substantive changes to the program (including early termination of the program) at least thirty (30) days prior to implementation of any changes.

New patent applications are normally taken up for examination in the order of their U.S. filing date. Applications accepted into this pilot program will receive expedited processing by being granted special status and taken out of turn until issuance of a Pre-Interview Communication, or first-action Notice of Allowability but will not maintain special status thereafter. While JPO and USPTO will be sharing search results, the possibility exists that there may be differences in the listing of references made of record by the USPTO versus those made of record in the corresponding JPO counterpart application. Participants in the US–JP CSP program should review the references cited in each office's communication. If any JPO communication to an applicant cites references that are not already of record in the USPTO application and the applicant wants the examiner to consider the references, the applicant should promptly file an Information Disclosure Statement (IDS) that includes a copy of the JPO communication along with copies of the newly cited references in accordance with 37 CFR 1.98 and MPEP § 609.04(a)–(b). See also MPEP §§ 609 and 2001.06(a).

III. Requirements for Participation in the US–JP CSP Program

The following requirements must be satisfied for a petition under the US–JP CSP program to be granted:

(1) The application must be a published, non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage in compliance with 35 U.S.C. 371(c) with an effective filing date no earlier than March 16, 2013. The U.S. application and the corresponding JPO counterpart application must have a common earliest priority date that is no earlier than March 16, 2013.

(2) A completed petition form PTO/SB/437JP must be filed in the application via EFS-Web after the U.S. application has published. Form PTO/SB/437JP is available at: *http://www.uspto.gov/patents-getting-started/international-protection/collaborative-search-pilot-program-csp.* An applicant may request early publication in accordance with 37 CFR 1.219 to expedite the filing of the petition.

(3) The petition submission must include an express written consent under 35 U.S.C. 122(c) for the USPTO to receive prior art references and comments from the JPO that will be considered during the examination of the U.S. application participating in the US–JP CSP Program. Form PTO/SB/437JP includes language compliant with the consent requirements for this pilot program.

(4) The petition must be filed at least one day before a first Office action on the merits of the application appears in the Patent Application Information Retrieval (PAIR) system (*i.e.,* at least one day prior to the date when a first Office action on the merits, notice of allowability or allowance, or action under *Ex parte Quayle,* 1935 Dec. Comm'r Pat. 11 (1935), appears in the PAIR system). An applicant should check the status of the application using the PAIR system prior to submitting the petition to ensure that this requirement is met.

(5) The petition for participation filed in the corresponding JPO counterpart application for the US–JPO CSP program must be granted or have been granted by JPO. The USPTO and JPO petitions should be filed within fifteen days of each other. Both the JPO and the USPTO petitions must be granted before either application can be treated under the US–JP CSP program. As the requirements of each office's pilot programs may differ, applicants should review the requirements for both pilot programs when considering participation, ensuring that the respective corresponding counterpart applications can comply with each office's requirements.

(6) The petition submission must include a claims correspondence table that notes which independent claims between the pending U.S. and JPO applications have a substantially corresponding scope to each other. Claims are considered to have ''substantially corresponding scope'' where, after accounting for differences due to claim format requirements, the scope of the corresponding independent claims in the corresponding counterpart applications would either anticipate or render obvious the subject matter recited under U.S. law. Additionally, claims in the corresponding U.S. counterpart application that introduce a new/different category of claims than those presented in the corresponding JPO counterpart application(s) are not considered to substantially correspond. For example, where a corresponding JPO counterpart application contains only claims relating to a process of manufacturing a product, then any product claims in the corresponding U.S. counterpart application are not considered to substantially correspond, even if the product claims are dependent on process claims, which substantially correspond to claims in each corresponding counterpart application. Applicants may file a preliminary amendment in compliance with 37 CFR 1.121 to amend the claims of the corresponding U.S. counterpart application to satisfy this requirement when attempting to make the U.S. application eligible for the program.

(7) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must not contain any multiple dependent claims. For an application that contains more than three independent claims or twenty total claims, or any multiple dependent claims, applicants must file a preliminary amendment in compliance with 37 CFR 1.121 to cancel the excess claims and/or the multiple dependent claims to make the application eligible for the program.

(8) The claims must be directed to a single invention. If the Office determines that the claims are directed to multiple inventions (*e.g.,* in a restriction requirement), the applicant must make a telephonic election without traverse in accordance with the procedures outlined in section V of this notice. An applicant is responsible to ensure the same invention is elected in both the U.S. and JPO corresponding

counterpart applications for concurrent treatment in the US–JP CSP program.

(9) All submissions for the participating application while being treated under the US–JP CSP program's examination procedure must be filed via EFS-Web.

(10) The petition must include a statement that the applicant agrees not to file a request for a refund of the search fee and any excess claim fees paid in the application after the mailing or notification date of the Pre-Interview Communication. See Form PTO/SB/413C. Any petition for express abandonment under 37 CFR 1.138(d) to obtain a refund of the search fee, and excess claims fee filed after the mailing or notification date of a Pre-Interview Communication will not be granted.

IV. Decision on Petition To Make Special Under the US–JP Collaborative Search Pilot Program (Form PTO/SB/437JP)

An applicant must file a Petition to Make Special using Form PTO/SB/437JP in an eligible U.S. application for entry into the US–JP CSP program after the application has published. An applicant may request early publication in accordance with 37 CFR 1.219 to expedite the filing of the petition. An applicant also must file the appropriate petition paper in the corresponding JPO counterpart application for participation in the US–JP CSP program. Once both petitions are granted, the corresponding U.S. counterpart application will receive expedited processing by being placed on the examiner's special docket for examination in accordance with sections V–IX of this notice.

A. *Petition Decision Making:* An applicant must file appropriate petition papers in the USPTO and JPO corresponding counterpart applications within fifteen days of each other. If the petitions are not filed within fifteen days of each other, an applicant runs the risk of one of the pending applications being acted upon by an examiner before entry into the pilot program, which will result in both applications being denied entry into the pilot program. Both offices must grant the respective petitions in order for the applications to participate in the pilot program. Once decisions granting the petitions have issued, an applicant will no longer have a right to file a preliminary amendment that amends the claims. Any preliminary amendment filed after petition grant and before issuance of a Pre-Interview Communication amending the claims, will not be entered unless approved by the examiner. After the decision granting the petition issues, and before issuance of a Pre-Interview Communication, an applicant may still submit preliminary amendments to the specification that do not affect the claims. If either office determines that the petition must be denied, then the other office will be informed of the denial determination, and both offices will issue decisions denying the petition.

B. *Petition Dismissal:* If an applicant files an incomplete Form PTO/SB/437JP, or if an application accompanied by Form PTO/SB/437JP does not comply with the requirements set forth in this notice, the USPTO will notify the applicant of the deficiency by issuing a dismissal decision and the applicant will be given a single opportunity to correct the deficiency. If the applicant still wishes to participate in the US–JP CSP Program, the applicant must make appropriate corrections within one month or thirty days of the mailing date of the dismissal decision, whichever is longer. The time period for reply is *not* extendable under 37 CFR 1.136(a). If the applicant does not timely file a response to the dismissal decision or timely files a response that fails to correct all of the noted deficiencies, the petition will be denied. In both cases, USPTO will notify JPO of the denial and then both offices will issue a denial decision in each application, resulting in neither application participating in the pilot program. The U.S. application will then be examined in accordance with standard examination procedures, unless designated special in accordance with another established procedure (*e.g.,* Prioritized Examination, Special Based on Applicant's Age, etc.). If the applicant timely files a response to the dismissal decision correcting all noted deficiencies and does not introduce new deficiencies, the USPTO will issue a decision granting the petition.

C. *Withdrawal of Petition:* An application can be withdrawn from the pilot program only by filing a withdrawal of the petition to participate in the pilot program prior to issuance of a decision granting the petition. Once the petition for participation in the pilot program has been granted (one day before it appears in PAIR), withdrawal from the pilot program is not permitted. The USPTO will treat any request for withdrawal from the pilot program filed after the mailing or notification of the petition being granted as a request to not conduct an interview, and subsequent to the mailing of the Pre-Interview Communication, the USPTO will issue a First Action Interview Office Action, in due course. (See section VIII.B.1. of this notice.)

V. Requirement for Restriction

If the examiner determines that not all the claims presented are directed to a single invention, the telephone restriction practice set forth in MPEP § 812.01 will be followed. An applicant must make an election without traverse during the telephonic interview in accordance with the procedures outlined in sections V.A. or V.B. of this notice. When a telephonic election is made, the examiner will provide a complete record of the telephone interview, including the restriction or lack of unity requirement and the applicant's election, as an attachment to the Pre-Interview Communication. Applicants are strongly encouraged to ensure that applications submitted for the pilot are written such that they claim a single, independent, and distinct invention. An applicant is responsible to ensure the same invention is elected in both the U.S. and JPO corresponding counterpart applications for concurrent treatment in the US–JP CSP program.

A. *USPTO Office of First Search:* If the USPTO determines a restriction is required, applicant must make an election without traverse during the telephonic interview in response to a restriction or lack of unity requirement. If the applicant refuses to make an election without traverse, or if the examiner cannot reach the applicant after a reasonable effort (*i.e.,* three business days), the examiner will treat the first claimed invention (the group of claim 1) as constructively elected without traverse for examination. The examiner will record the circumstances for the constructive election in the next Office communication (Pre-Interview Communication or Notice of Allowability). If the restriction requirement claim groups have substantially corresponding scope to different corresponding JPO counterpart applications, upon election of one group without traverse, an applicant may file a divisional U.S. application(s) and may separately petition to have the divisional U.S. application(s) participate in the pilot program. An applicant must include the decisions granting the petition from both the parent U.S. application and from the divisional application's corresponding JPO counterpart application, to expedite decision making for the corresponding U.S. counterpart divisional application.

B. *USPTO Office of Second Search:* If the USPTO is the office of second search, then a restriction or lack of unity requirement determination by the examiner will first take into consideration whether only one of the

restriction claim groups has a substantially corresponding scope to the corresponding JPO counterpart application that was already searched. If so, then the USPTO will designate that group as elected without traverse for treatment in accordance with this notice. If more than one of the restricted claim groups was searched in the corresponding JPO counterpart applications, the examiner will attempt to contact the applicant for a telephonic interview in order to provide for the opportunity to elect a claim group without traverse. If applicant refuses to make an election without traverse, or if the examiner cannot reach the applicant after a reasonable effort (*i.e.,* three business days), the examiner will treat the first claimed invention of the U.S. application that was searched in the counterpart JPO application as constructively elected without traverse. If the other restriction requirement groups have substantially corresponding scope to other different corresponding JPO counterpart applications, the applicant may file corresponding U.S. counterpart divisional applications and may separately petition to have the divisional U.S. applications participate in the pilot program. The applicant must include the decision granting the petition from the parent application and from the U.S. divisional application's corresponding JPO counterpart application, if any, to expedite decision making for the corresponding U.S. counterpart divisional application.

VI. Searching

The offices will search the corresponding counterpart applications participating in the pilot program sequentially. The office of first search will be set based upon which participating counterpart application (JPO or U.S.) has the earlier filing date. In the event that both corresponding counterpart applications were filed on the same day, then the office of first search will be determined as agreed to by the offices.

A. *USPTO Office of First Search:* If the USPTO is the office of first search, the JPO will place a hold on the corresponding JPO counterpart application to await the USPTO initial search results. The corresponding U.S. counterpart application will be docketed to the USPTO examiner in accordance with USPTO procedures for this program. The USPTO examiner will review the application, perform a prior art search, and communicate the initial search results to the JPO. Upon receipt of the USPTO initial search results, the JPO will remove the docket hold, and the JPO examiner will perform a prior art search of the corresponding JPO counterpart application. The JPO will then forward the search results to the USPTO. The USPTO will then issue a communication in accordance with section VII of this notice.

B. *JPO Office of First Search:* If the JPO is the office of first search, the USPTO will place a hold on the corresponding U.S. counterpart application to await the JPO initial search results. The corresponding JPO counterpart application will be docketed to the JPO examiner in accordance with JPO procedures for this pilot program. The JPO examiner will review the application, perform an evaluation and prior art search, and communicate the initial search results to the USPTO. Upon receipt of the JPO initial search results, the USPTO will remove the docket hold, and the USPTO examiner will review the application and perform a prior art search of the corresponding U.S. counterpart application. The USPTO will then forward the search results to the JPO and issue a communication to applicant in accordance with section VII of this notice.

C. *Exceeding Maximum Search Results Exchange Hold:* If the search results have not been exchanged within 90 days of the mailing date of the decision granting participation in the program, then each office will independently issue search results to the applicant without the search results from the other office. The USPTO will issue the search results in either a Notice of Allowability or a Pre-Interview Communication as set forth in Section VII of this notice, noting that JPO search results are not included. The Notice of Allowability or Pre-Interview Communication also will note that the corresponding counterpart applications are being removed from the pilot program for evaluation purposes only, and that the corresponding U.S. counterpart application will continue to be treated in accordance with the FAI pilot program procedures, if necessary.

VII. Post Search Exchange Communication

Once all search results are received by the examiner and considered, then either a Notice of Allowability or a Pre-Interview Communication may issue.

A. *Notice of Allowability:* If the examiner, after considering both sets of search results, determines that the application is in condition for allowance or the application could be placed in condition for allowance with minor corrections or a possible amendment or submission, then the examiner may allow the application. The examiner may issue a notice of allowability, or contact the applicant to conduct an interview in accordance with MPEP § 713 to discuss any possible amendments or submissions to place the application in condition for allowance. The USPTO will notify JPO of the examiner's determination of allowability to include all findings and references identified in the notice of allowance. The examiner will cite references from the JPO search results in a Notice of References Cited form PTO–892 when the Notice of Allowability is issued to applicant. The Notice of Allowability with a completed Notice of References Cited form PTO–892 also will be forwarded to JPO for further consideration by the JPO examiner of record for the corresponding JPO counterpart application.

B. *Pre-Interview Communication:* If the examiner, after considering both sets of search results, determines that the application is not in condition for allowance, then the examiner will prepare and issue a Pre-Interview Communication (PTOL–413FP) and a Notice of References Cited (PTO–892) citing the prior art references, identifying any rejections or objections, and any designation of allowable subject matter. The examiner will cite references from the JPO search results in a Notice of References Cited form PTO–892 when the Pre-Interview Communication is issued to applicant. The Pre-Interview Communication with a completed Notice of References Cited form PTO–892 will also be forwarded to JPO for further consideration by the JPO examiner of record for the corresponding JPO counterpart application.

The Pre-Interview Communication issued to an applicant will set forth a time period of one month or thirty days, whichever is longer, for the applicant to request or decline an interview. An applicant is responsible for responding to the Pre-Interview Communication in accordance with the First Action Interview Program procedures discussed in Section VIII of this notice. The USPTO will permit an applicant to extend this time period for reply pursuant to 37 CFR 1.136(a) for one additional month in accordance with the First Action Interview Program, as set forth in section VIII, subsection B (Applicant's Options and Reply to Pre-Interview Communication) and subsection C (Failure to Respond to Pre-Interview Communication) of this notice. The examiner's typical working schedule also will be provided with the Pre-Interview Communication to indicate the examiner's availability for scheduling the interview.

VIII. Post Pre-Interview Communication

A. *Amendments Filed After Pre-Interview Communication:* Once a Pre-Interview Communication has been entered in an application, an applicant no longer has a right to amend any part of the application until the first action interview is conducted and the First Action Interview Office Action is sent. Therefore, any amendments filed after the Pre-Interview Communication, but before the interview and the mailing or notification date of a First Action Interview Office Action (PTOL–413FA), will not be entered unless approved by the examiner or in accordance with the procedure of the Full First Action Interview Pilot Program as set forth in section VIII, subsection B(2), or section IX, subsection B(3), of this notice. This is because the examiner has already devoted a significant amount of time to the preparation of the Pre-Interview Communication. See 37 CFR 1.115(b) and MPEP § 714.01(e). The USPTO may enter the amendment if it is clearly limited to: Cancellation of claims; adoption of examiner suggestions; placement of the application in condition for allowance; and/or correction of informalities (similar to the treatment of an after-final amendment). Amendments will be entered solely at the examiner's discretion.

B. *Applicant Options and Reply to Pre-Interview Communication:* Upon receipt of a Pre-Interview Communication, the applicant has three options:

(1) File a ''Request to Not Have a First Action Interview'';

(2) File a reply under 37 CFR 1.111 waiving the first action interview and First Action Interview Office Action—an applicant is accepting that the Pre-Interview Communication is the first Office action on the merits; or

(3) Schedule the first action interview—an applicant must file an Applicant Initiated Interview Request Form (PTOL–413A) electronically via EFS-Web, accompanied by a proposed amendment or arguments, and schedule the interview to be conducted within two months or sixty days, whichever is longer, from the filing of the Applicant Initiated Interview Request.

1. *Request to Not Have a First Action Interview:* If an applicant wishes not to have the first action interview, applicant should electronically file a letter requesting to not have a first action interview within the time period set forth in the Pre-Interview Communication. In this situation, a first action interview will not be conducted, and the examiner will provide the First Action Interview Office Action setting forth the requirements, objections, and rejections relevant to the claimed invention. However, such a request will not preclude the examiner from contacting the applicant and conducting a regular interview in accordance with MPEP § 713 to discuss any issues or possible amendment to place the application in condition for allowance. To ensure that the request will be processed and recognized timely, an applicant should file the request electronically via EFS-Web, selecting the document description ''Request to Not Have a First Action Interview'' on the EFS-Web screen.

Once the petition for entry into the pilot has been granted (one day before it appears in PAIR), withdrawal from the program is not permitted. Therefore, the USPTO will treat a request for withdrawal from the pilot program filed after the mailing or notification of granting an applicant's petition to participate in the pilot as a request to not conduct an interview, issue a Pre-Interview Communication, and subsequently enter a First Action Interview-Office Action, in due course.

2. *File a Reply under 37 CFR 1.111, Waiving the First Action Interview and First Action Interview Office Action:* Applicants may file, preferably in conjunction with a request to not conduct the interview, a reply in compliance with 37 CFR 1.111(b)–(c) to address every rejection, objection, and requirement set forth in the Pre-Interview Communication, thereby waiving the first action interview and First Action Interview Office Action. The reply under 37 CFR 1.111 must be filed within the time period for reply set forth in the Pre-Interview Communication. To ensure that the request will be processed and recognized timely, an applicant should file the request electronically via EFS-Web, selecting the document description ''Reply under 1.111 to Pre-Interview Communication'' on the EFS-Web screen.

In this situation, a first action interview will not be conducted, and a First Action Interview Office Action will not be provided to the applicant. The Pre-Interview Communication will be deemed the first Office action on the merits. The examiner will consider the reply under 37 CFR 1.111 and provide an Office action in response to the reply, in due course. The Office action will be the second Office action on the merits, and thus it could be a final Office action, a notice of allowability, or other appropriate action.

3. *Schedule the First Action Interview:* If an applicant wants a first action interview with the examiner, the applicant must timely file an Applicant Initiated Interview Request Form (PTOL 413A), *electronically using EFS-Web,* accompanied by a proposed amendment and/or arguments (as an attachment to the request). To ensure that the request will be processed and recognized timely, the applicant should select the document description ''First Action Interview—Schedule Interview Request.''

An applicant must designate a proposed date to conduct the interview to facilitate scheduling of the first action interview. The applicant's proposed date to conduct the interview must be within two months or sixty days, whichever is longer, from the filing of the Applicant Initiated Interview Request Form. An applicant should consult the examiner's work schedule provided in the Pre-Interview Communication and discuss with the examiner the best date for conducting the interview.

After filing the Applicant Initiated Interview Request Form, an applicant must contact the examiner to confirm the interview date. The applicant's *failure to conduct an interview within two months or sixty days,* whichever is longer, from the filing of Applicant Initiated Interview Request Form *will be treated as a failure to respond to the Pre-Interview Communication.* See section VIII; subsection C (Failure to Respond to Pre-Interview Communication) of this notice. The interview may be in person, telephonic, or a video-conference. An applicant must provide written authorization to conduct any Internet email communications with the examiner. See MPEP § 502.03 for more information.

The proposed amendment or arguments must be clearly labeled as ''*PROPOSED*'' at the header or footer of each page and filed electronically via EFS-Web as an attachment to the Applicant Initiated Interview Request Form. The proposed amendment or arguments will *not* be entered as a matter of right. The examiner, based upon discussions, feedback, and agreement with an applicant during the interview may at his or her discretion enter the amendment if found sufficient to advance prosecution on the merits. See MPEP §§ 713.01 III and 713.04; see also MPEP §§ 714 and 1302.04. Even if the examiner denies entry of the proposed amendment, the proposed amendment will be placed in the application file.

Preparation for the Interview: An applicant must be prepared to fully

discuss the prior art of record, any relevant interview talking points from the interview talking points posted at *http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/fai_talking_points.pdf,* and any rejections or objections, with the intent to clarify and resolve all issues with respect to patentability during the interview. An applicant also must be prepared to discuss any proposed amendment or arguments previously submitted and discuss and resolve any relevant issues that arise. The interview talking points posted at *http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/fai_talking_points.pdf* represent a non-exhaustive list of potential topics for discussion in a first action interview. The talking points are available to the public and the patent examining corps to assist and facilitate comprehensive and effective first action interviews.

Multiple proposed amendments or sets of arguments are *not* permitted.

Inventor Participation: Inventor participation in the interview process is encouraged, as it may assist in the resolution of outstanding rejections and/or objections.

C. *Failure to Respond to Pre-Interview Communication:* If applicant fails to: (1) Respond to the Pre-Interview Communication within the time period for reply or (2) conduct the interview within two months or sixty days, whichever is longer, from the filing of the Applicant Initiated Interview Request Form, the Office will enter a First Action Interview Office Action. Therefore, the consequence for failure to respond to the Pre-Interview Communication is issuance of a First Action Interview Office Action without the benefit of an interview.

IX. First-Action Interview and First-Action Interview Office Action

A. First-Action Interview

The interview will be conducted in accordance with the procedure provided in MPEP § 713 except as otherwise provided in this notice. The interview should focus on and include:

1. A discussion to assist the examiner in developing a better understanding of the invention;

2. A discussion to establish the state of the art as of the effective filing date of the claimed invention, including the prior art references cited by both applicant and examiner (as only applications subject to the First Inventor to File provisions of the Leahy-Smith America invents act (AIA) are eligible for this pilot program); and

3. A discussion of the features of the claimed subject matter which make the invention patentable, including any proposed amendments to the claims.

B. Three Possible Outcomes of a First-Action Interview

1. *An agreement is reached and all claims are in condition for allowance.* If the applicant and the examiner reach agreement that the application is in condition for allowance, the examiner must complete an Interview Summary (PTOL–413), enter and attach any necessary amendments or arguments (*e.g.,* the proposed amendment and/or an examiner's amendment), generate a notice of allowability (PTOL–37), and attach a copy of the completed Applicant Initiated Interview Request Form. If the examiner agrees to enter the proposed amendment, the examiner must annotate the first page of the proposed amendment (*e.g.,* ''OK to enter''). In an in-person interview, a courtesy copy of the completed forms will be given to the applicant at the conclusion of the interview. The completed forms will then be promptly made of record with a Notice of Allowability and a Notice of Allowance and Fees Due (PTOL 85). The Notice of Allowability, Notice of Allowance, interview summary, and all amendments made of record along with a completed Notice of References Cited form PTO–892 listing any newly cited references also will be forwarded to JPO for consideration by the JPO examiner of record for the corresponding JPO counterpart application.

2. *An agreement as to allowability is not reached.* If the applicant and the examiner do not reach agreement during the interview, the examiner will set forth any unresolved, maintained, or new requirements, objections, and rejections in the First Action Interview Office Action. The examiner will also complete an Interview Summary, highlighting the basis for any unresolved, maintained, or new requirements, objections, and rejections as well as resolution of any issues that occurred during the interview, attaching a copy of the completed Applicant Initiated Interview Request Form and any proposed amendments or arguments. In an in-person interview, a courtesy copy of the completed forms may be given to the applicant at the conclusion of the interview. The completed forms will be promptly made of record.

For this situation, the First Action Interview Office Action is deemed the first Office action on the merits. Because the requirements, objections, and grounds of rejection are provided in the Pre-Interview Communication and the First Action Interview Office Action, an applicant has sufficient notice of the requirements, objections, and grounds of rejection. To avoid abandonment of the application, the applicant must, within two months or sixty days, whichever is longer, from the mailing or notification date of the First Action Interview Office Action, file a reply in compliance with 37 CFR 1.111(b)–(c). This time period for reply is extendable under 37 CFR 1.136(a) for only two additional months. The First Action Interview Office Action, interview summary, and a completed Notice of References Cited form PTO–892 listing any newly cited references also will be forwarded to JPO for consideration by the JPO examiner of record for the corresponding JPO counterpart application.

3. *An agreement as to allowability is not reached, and applicant wishes to convert the previously submitted proposed amendment into a reply under 37 CFR 1.111(b) and waive receipt of a First Action Interview Office Action.* Applicants may request the USPTO to enter the previously filed proposed amendment and/or arguments as a reply under 37 CFR 1.111 to address every rejection, objection, and requirement set forth in the Pre Interview Communication, waiving a First Action Interview Office Action, if the proposed amendment and/or arguments comply with the requirements of 37 CFR 1.121 and 37 CFR 1.111(b)–(c). If the examiner agrees to enter the proposed amendment as the reply under 37 CFR 1.111 to the Pre-Interview Communication, the examiner must annotate the first page of the proposed amendment (*e.g.,* ''OK to enter'') and provide a statement in the Interview Summary (*e.g.,* ''Applicant requested to enter the proposed amendment as a reply under 37 CFR 1.111 to the Pre-Interview Communication, waiving the First Action Interview Office Action''). The applicant cannot file any additional amendment and/or arguments until the mailing or notification of the next Office action.

In this situation, a First Action Interview Office Action will not be provided to the applicant. The Pre-Interview Communication and the interview will be deemed the first Office action on the merits. The examiner will enter the proposed amendment and/or arguments, consider it as the reply under 37 CFR 1.111, and provide an Office action in response to the reply. The Office action will be the second Office action on the merits, and thus it could be a final Office action, a notice of allowability, or other appropriate action.

C. Substance of Interview Must Be Made of Record

A complete written statement as to the substance of the interview with regard to the merits of the application must be made of record in the application, whether or not an agreement with the examiner was reached at the interview. It is applicant's responsibility to make of record the substance of an interview, and it is the examiner's responsibility to see that such a record is made and to correct inaccuracies, including those which bear directly on the question of patentability. See MPEP § 713.04.

Date: July 2, 2015.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–16846 Filed 7–9–15; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective* 8/10/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 6/5/2015 (80 FR 32096–32097), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN—Product Name: MR 843—Set, Bag Clip, 5 pc.
Mandatory Purchase For: Military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4.
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Defense Commissary Agency, Fort Lee, VA.
Distribution: C-List.

NSNs—Product Names:
7530–00–NIB–1158—Label, Address, Recycled, Laser and Inkjet, White, 1″ × 4″
7530–00–NIB–1159—Label, Address, Recycled, Laser and Inkjet, White, 2″ × 4″
7530–00–NIB–1160—Label, Address, Recycled, Laser and Inkjet, White, 1 ⅓″ × 4″
Mandatory Purchase For: Total Government Requirement.
Mandatory Source of Supply: North Central Sight Services, Inc., Williamsport, PA.
Contracting Activity: General Services Administration, New York, NY.
Distribution: A-List.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–16934 Filed 7–9–15; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a service previously provided by such agency.

DATES: *Comments must be received on or before:* 8/10/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type: Equipment and Facility Support Service
Service Mandatory For: U.S. Air Force, Ogden Air Logistics Complex, Hill Air Force Base, UT
Mandatory Source of Supply: Beacon Group SW., Inc., Tucson, AZ
Contracting Activity: FA8224 OL H PZI PZIM, Hill Air Force Base, UT
Service Type: Document Destruction Service
Service Mandatory For: Department of Veterans Affairs, Veterans Integrated, Service Network (VISN) 10, 3140 Governor's Place Blvd., Suite 210, Kettering, OH
Mandatory Source of Supply: Greene, Inc., Xenia, OH

Contracting Activity: Department of Veterans Affairs, 552-Dayton, Dayton OH
Service Type: Janitorial Service
Service Mandatory For: U.S. Coast Guard, Transformation Warehouse, 1873 Eringhaus Street, Elizabeth City, NC
Mandatory Source of Supply: Skills, Inc., Elizabeth City, NC
Contracting Activity: Department of Homeland Security, U.S. Coast Guard, Aviation Logistics Center (ALC), Elizabeth City, NC

Deletions

The following service is proposed for deletion from the Procurement List:

Services

Service Type: Food Service Attendant Service
Service Mandatory For: United States Military Academy: Enlisted Dining Facility, and Summer Camp, Enlisted Dining Facility—Bldg 620, Knox Road, West Point, NY
Mandatory Source of Supply: New Dynamics Corporation, Middletown, NY
Contracting Activity: Dept of the Army, W40M Northern Region Contract Office Fort Belvoir, VA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–16933 Filed 7–9–15; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2013–0013]

Proposed Collection; Comment Request

AGENCY: Department of Defense/Department of the Army/U.S. Army Training and Doctrine Command (TRADOC), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 8, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Headquarters, U.S. Army Training and Doctrine Command, Learning Integration, Institute for NCO Professional Development (ATCG–NCI), ATTN: Jeffery J. Colimon, 950 Jefferson Avenue, Fort Eustis, Virginia 23604–5702.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Sponsorship Program Counseling and Information Sheet; DA Form 5434; OMB Control Number 0702–TBD.

Needs and Uses: The information collection requirement is necessary to obtain and retain sponsorship program entitlements, and provide information to gaining battalion or activity of new members.

Affected Public: Individuals or Households; Soldiers and Department of the Army Civilians and their Family Members.

Annual Burden Hours: 28,889.

Number of Respondents: 173,338.
Responses per Respondent: 1.
Annual Responses: 173,338.
Average Burden per Response: 10 minutes.
Frequency: On occasion.

Respondents are DA Civilian employees and Soldiers. Departing Soldiers or DA Civilian employees complete the DA Form 5434 during initial reassignment interview or are interviewed by a DA Civilian employee following selection notification and acceptance of a position. The automation of the collection action into the Army Career Tracker (ACT) will help commanders with their basic responsibility to assist Soldiers, civilian employees, and families successfully relocate in and out of their commands. The form will be hosted into the ACT system to facilitate the execution of the Total Army Sponsorship Program (TASP).

Dated: July 6, 2015.

Aaron Siegel,

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

[FR Doc. 2015–16855 Filed 7–9–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0039]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel & Readiness, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel & Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 8, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of Family Readiness Policy, ATTN: Program Manager, Spouse Education & Career Opportunities Program, 4800 Mark Center Drive, Suite 03G15, Alexandria, VA 22350–2300.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Spouse Employment Partnership (MSEP) Career Portal; OMB Control Number 0704–TBD.

Needs and Uses: This information collection requirement is necessary to allow MSEP Partners to search for military spouse candidates and for military spouses to directly search for employment opportunities with MSEP Partners.

Affected Public: Military spouse users of the MSEP Career Portal, MSEP Partners, Companies.

Annual Burden Hours:

Military Spouses = 16,500.

MSEP Partners = 125.

Companies = 38.

TOTAL = 900,163.

Number of Respondents:

Military Spouses = 22,000 military spouses.

MSEP Partners = 300 partners.

Companies = 150 companies.

TOTAL = 1,200,450 respondents.

Responses per Respondent: 1.

Average Burden per Response:

Military Spouses = 45 minutes.

MSEP Partners = 25 minutes.

Companies = 15 minutes.

TOTAL = 85 minutes.

Frequency:

Military Spouses = On occasion.

MSEP Partners = On occasion.

Companies = Once.

The Military Spouse Employment Partnership (MSEP) Career Portal is the sole web platform utilized to connect military spouses with companies seeking to hire military spouse employees. Participating companies, called MSEP Partners, are vetted and approved participants in the MSEP Program and have pledged to recruit, hire, promote and retain military spouses in portable careers. MSEP is a targeted recruitment and employment partnership that connects American businesses with military spouses who possess essential 21st-century workforce skills and attributes and are seeking portable, fulfilling careers. The MSEP program is part of the overall Spouse Education and Career Opportunities (SECO) program which falls under the auspices of the office of the Deputy Assistant Secretary of Defense for Military Community & Family Policy.

This program was developed in compliance with 10 U.S. Code 1784 Employment Opportunities for Military Spouses which states:

(f) Private-Sector Employment.—The Secretary of Defense—

(1) Shall seek to develop partnerships with firms in the private sector to enhance employment opportunities for spouses of members of the armed forces and to provide for improved job portability for such spouses, especially in the case of the spouse of a member of the armed forces accompanying the member to a new geographical area because of a change of permanent duty station of the member; and

(2) shall work with the United States Chamber of Commerce and other appropriate private-sector entities to facilitate the formation of such partnerships.

Dated: July 7, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–16869 Filed 7–9–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

The Release of the Supplemental Environmental Impact Statement for the Figure Eight Island Shoreline Management Project, on Figure Eight Island, New Hanover County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, from Figure Eight Beach Homeowners' Association Inc. (HOA) to install a terminal groin structure along Rich Inlet and to conduct a supplemental beach nourishment on approximately 4,500 linear feet of oceanfront beach and 1,400 linear feet of back barrier shoreline to protect residential homes and infrastructures along the central and northern sections of Figure Eight Island. The terminal groin structure will be placed perpendicular on the northern tip of the island along the shoulder of Rich Inlet; and the proposed source of the material for the nourishment will be dredged from an area within Nixon Channel, a back barrier channel, that has been previously used for past beach nourishment projects. In case the quantity of material from Nixon Channel is not sufficient, material pumped from (3) nearby upland disposal islands will be used to supplement the nourishment needs. The majority of the material will be disposed within the fillet area, or down shore, of the groin. Pending storm events and shoreline changes, maintenance, or periodic nourishment, of the beach is proposed a maximum of once every five years, or potential 6 separate events over the 30-year study period. Nixon Channel and the upland disposal islands are the proposed material sources for the periodic maintenance, or renourishment, events.

DATES: Written comments on the Supplemental EIS must be received at (see **ADDRESSES**) no later than 5 p.m. on August 24, 2015.

ADDRESSES: Copies of comments and questions regarding the Supplemental EIS may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. ATTN: File Number 2006–41158, 69 Darlington Avenue, Wilmington, NC 28403. Copies of the Supplemental EIS can be reviewed on the Corps homepage at, *http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/MajorProjects,* under Figure Eight Island Terminal Groin: Corps ID #SAW–2006–41158.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and SEIS and/or to receive CD or written copies of the Supplemental EIS can be directed to Mr. Mickey Sugg,

Wilmington Regulatory Field Office, telephone: (910) 251–4811.

SUPPLEMENTARY INFORMATION:

1. *Project Purpose and Need.* Figure Eight Beach HOA has addressed the continuing oceanfront erosion problems associated with Rich Inlet and Nixon Channel erosion hot-spot on the estuarine side of the island over the past several decades. Past actions to protect the shorelines have provided some protection, however they are seeking a longer term solution to handle shoreline erosion in order to protect the island's $907,352,900 (based on the 2012 reappraisal) assessed property tax value. Their stated needs of the project continue to be the following: (1) Reduce erosion along approximately 2.3 miles of oceanfront and 0.34 miles of back barrier shorelines, (2) Provide reasonable short-term protection to residential structures to any unpredicted shoreline change over the next five years, (3) Provide long-term protection to homes and infrastructure over the next 30 years, (4) Maintain the tax value of homes, properties, and infrastructure, (5) Use beach compatible material, (6) Maintain navigation conditions within Rich Inlet and Nixon Channel, (7) Maintain recreational resources, and (8) Balance the needs of the human environment with the protection of existing natural resources.

2. *Proposed Action.* Within the Town's preferred alternative, known as Alternative 5D, the installation of the terminal groin is the main component in the protection of the oceanfront shoreline. The location of the structure will be approximately 420 feet north of the initial location described in the Draft EIS which was published in the **Federal Register** (77 FR 29618) on May 18, 2012. The proposed structure is just north of the existing homes along the shoulder of Rich Inlet. Its total length is approximately 1,500 feet, which approximately 505 feet will project seaward of the 2007 mean high water shoreline. The landward 995-foot anchor section would extend across the island and terminate near the Nixon Channel Shoreline. This section will be constructed of 14,000 to 18,000 square feet of sheet pile with portions of the length wrapped with rock. Although engineering design plans are not finalized, basic construction design of the seaward 505-foot part of the structure will be in the form of a typical rubble (rock) mound feature supported by a 1.5-foot thick stone foundation blanket. Crest height or elevation of this section is estimated to be + 6.0 feet NAVD for the first 400 feet and would slope to a top elevation of + 3.0 feet NAVD on the seaward end. Approximately 16,000 tons of stone would be used to construct the terminal groin. The concept design of the structure is intended to allow littoral sand transport to move over, around, and through the groin once the accretion fillet has completely filled in.

Construction of the terminal groin will be kept within a corridor varying in width from 50 feet to 200 feet. Within this corridor, a 40–70 foot wide trench will be excavated to a depth of −2.5 feet NAVD in order to construct the foundation of the landward section. The approximate 6,000 cubic yards of excavated material will be replaced on and around the structure once it's in place. Material used to build the groin will be barged down the Atlantic Intracoastal Waterway (AIWW), through Nixon Channel, and either offloaded onto a temporary loading dock or directly onto shore. It will then be transported, via dump trucks, within the designated corridor to the construction site.

Material used for nourishment will be dredged, using a hydraulic cutterhead plant, from a designated borrow site within Nixon Channel, which has been previously used for beach fill needs. Approximately 294,500 cubic yards will be required for both the oceanfront (237,500 cubic yards) and the Nixon Channel shoreline (57,000 cubic yards) fill areas under the 2006 and 2012 shoreline study conditions. Beach compatible material from (3) upland disposal islands would serve as a contingency sediment source.

Engineer modeling results have shown that periodic nourishment will be required approximately once every five years to maintain the beach and Nixon Channel shorelines. The combined 5-year estimated maintenance needs for both areas are 320,000 cubic yards of material under the 2006 condition and 255,000 cubic yards of material under 2012 condition, equivalent to approximately 58,000 and 45,000 cubic yards per year respectively. This material will come from the designated Nixon Channel borrow site and the (3) upland disposal areas.

3. *Alternatives.* Several alternatives have been identified and evaluated through the scoping process, and further detailed description of all alternatives is disclosed in Section 3.0 of the Supplemental EIS. At the time of the Draft EIS release in 2012, the applicant's preferred alternative had been the Alternative 5B described in Section 3.0 of the SEIS. However, the Figure Eight Beach HOA evaluated two other minor variations of this alternative and determined that one of those variations, Alternative 5D, would best suit their needs. Alternative 5D, the applicant's preferred alternative, is to install a terminal groin structure approximately 420 feet north of Alternatives 5A and 5B, to conduct initial supplemental beach nourishment, and to implement a periodic beach nourishment plan over a 30-year period.

4. *Scoping Process.* To date, a public scoping meeting was held on March 1, 2007; several Project Delivery Team (PDT) meetings have been held; comprising of local, state, and federal government officials, local residents and nonprofit organizations; Draft EIS was released for public comments on May 18, 2012; and a Public Hearing was conducted on June 7, 2012.

The COE is consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and the Fish and Wildlife Coordination Act, and with the National Marine Fisheries Service under the Magnuson-Stevens Act and Endangered Species Act. Additionally, the SEIS assesses the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and is coordinated with the North Carolina Division of Coastal Management (DCM) to insure the projects consistency with the Coastal Zone Management Act. The COE is coordinating closely with DCM in the development of the SEIS to ensure the process complies with State Environmental Policy Act (SEPA) requirements, as well as the NEPA requirements. The Supplemental EIS has been designed to consolidate both NEPA and SEPA processes to eliminate duplications.

Dated: July 2, 2015.

Henry Wicker,

Regulatory Division Assistant Chief, Wilmington District.

[FR Doc. 2015–16941 Filed 7–9–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of a Draft Regional Environmental Impact Statement to Analyze Potential Impacts within Defined Geographic Regions in Texas that may be Affected by Future U.S. Army Corps of Engineers, Fort Worth District, Permit Decisions for Future Surface Coal and Lignite Mine Expansions or Satellite Mines within the District's area of Responsibility (USACE Project No. SWF–2010–00244)

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Fort Worth District, as lead federal agency, is preparing this Regional Environmental Impact Statement (REIS) to analyze potential impacts within defined geographic regions in Texas that may be affected by future USACE, Fort Worth District, permit decisions for future surface coal and lignite mine expansions or satellite mines within the District's area of responsibility. The REIS is being prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500–1508), and the USACE Procedures for Implementing NEPA (33 CFR 230).

DATES: Submit comments no later than 60 days from the date of publication of this notice in the **Federal Register**.

ADDRESSES: Send written comments and suggestions concerning this proposal to Mr. Darvin Messer, Regulatory Project Manager, Regulatory Branch, CESWF–DE–R, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, TX 76102–0300 or via email: *Texas_REIS_Comments@usace.army.mil*

Requests to be placed on the mailing list should also be sent to this address. Please reference USACE Project No. SWF–2010–00244 in all communications.

FOR FURTHER INFORMATION CONTACT: Mr. Darvin Messer, Regulatory Project Manager at (817) 886–1744 or via email: *Darvin.Messer@usace.army.mil*

SUPPLEMENTARY INFORMATION: The USACE, Fort Worth District, is proposing changes to its regulatory framework for surface coal and lignite mines in Texas. The proposed regulatory framework includes the establishment of a Regional General Permit (RGP) and a revised Letter of Permission (LOP) procedure with modifications to aquatic resource impact thresholds and a change from agency concurrence to agency coordination as compared to the current process. No changes to the criteria for Nationwide Permit (NWP) 21 or NWP 49 are proposed.

The REIS considers the potential environmental impacts of future mine expansions or satellite mines in six study areas along the coal-bearing formations in Texas that run from southwest Texas to northeast Texas. The study areas encompass locations within the coal/lignite belt in Texas that were determined to be within reasonable proximity to existing surface coal and lignite mines with potential for future expansion.

As part of the public involvement process, notice is hereby given by the USACE Fort Worth District of informal public information meetings (open house format) and formal Public Hearings regarding this Draft REIS will be held August 10–13, 2015, at the following locations:

August 10, 2015; International Center for Trade; 3295 Bob Rogers Drive, Eagle Pass, TX 78852.

August 11, 2015; Pleasanton Country Club; 1801 McGuffin Drive, Pleasanton, TX 78064.

August 12, 2015; Bell County Expo Center; 301 West Loop 121, Belton, TX 76513.

August 13, 2015; Holiday Inn South Broadway; 5701 South Broadway, Tyler, TX 75703.

Open House meetings will be held from 4:30 p.m. to 6:30 p.m. with the Formal Public Hearings beginning at 6:30 p.m. at each location. Written comments should be sent to Mr. Darvin Messer (see ADDRESSES). The comments are due no later than 60 days from the date of publication of this notice. Copies of the Draft REIS may be obtained by contacting USACE Fort Worth District Regulatory Branch at (817) 886–1731 or downloaded/printed from the Fort Worth District USACE internet Web site at: *http://www.swf.usace.army.mil/Missions/Regulatory/Permitting/REISforLigniteMiningin Texas.aspx*

Copies of the Draft REIS are also available for inspection at the locations identified below:

Pittsburg-Camp County Public Library, 613 Quitman Street, Pittsburg, TX 75686
Sammy Brown Library, 319 S. Market St., Carthage, TX 75633
Franklin County Library, 100 Main Street East, Mt. Vernon, TX 75457
Rusk County Library, 106 East Main St., Henderson, TX 75652
Sulphur Springs Public Library, 611 Davis St. North, Sulphur Springs, TX 75482
Fannie Brown Booth Library, 619 Tenaha Street, Center, TX 75935
Rains County Public Library, 150 Doris Briggs Parkway, Emory, TX 75440
Tyler Public Library, 201 S. College Ave., Tyler, TX 75702
Mount Pleasant Public Library, 601 North Madison Ave., Mount Pleasant, TX 75455
Palestine Public Library, 2000 S. Loop 256, Ste. 42, Palestine, TX 75801
Quitman Public Library, 202 East Goode Street, Quitman, TX 75783
Marlin Public Library, 400 Oaks St., Marlin, TX 76661
Singletary Memorial Library, 207 E 6th St, Rusk, TX 75785
Mary Moody Northen Municipal Library, 350 West Main Street, Fairfield, TX 75840
Longview Public Library, 222 W. Cotton St., Longview, TX 75601
Clint W. Murchinson Memorial Library, 121 S. Prairieville, Athens, TX 75751
Marshall Public Library, 300 S. Alamo Blvd., Marshall, TX 75670
Elmer P. & Jewel Ward Memorial Library, 207 E St Mary's St, Centerville, TX 75833
Groesbeck Maffett Public Library, 601 W. Yeagua St., Groesbeck, TX 76642
Georgetown Public Library, 402 W. 8th St., Georgetown, TX 78626
Jourdanton Community Library, 1101 Cambell Ave., Jourdanton, TX 78026
Carnegie Library, 315 E. Decherd Street, Franklin, TX 77856
Live Oak County Library, 102 Le Roy St, Three Rivers, TX 78071
Van Zandt County Public Library, 317 First Monday Ln, Canton, TX 75103
Dimmit County Public Library, 200 N. 9th Street, Carrizo Springs, TX 78834
Bastrop Public Library, 1100 Church Street, Bastrop, TX 78602
Kinney County Public Library, 510 South Ellen St., Bracketville, TX 78832
Harrie P. Woodson Memorial Library, 704 W. Hwy. 21, Caldwell, TX 77836
Eagle Pass Main Library, 589 East Main, Eagle Pass, TX 78852
Giddings Public Library, 276 North Orange St., Giddings, TX 78942
Crystal City Memorial Library, 101 E Dimmit, Crystal City, TX 78839
Cameron Public Library, 304 East 3rd Street, Cameron, TX 76520

After the public comment period ends, the USACE will consider all comments received by the due date, revise the Draft REIS as appropriate, and issue a Final Regional Environmental Impact Statement.

Stephen L Brooks,

Chief, Regulatory Division.

[FR Doc. 2015–16656 Filed 7–9–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0036]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study on Sustaining the Positive Effects of Preschool

AGENCY: OPEPD, 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 August 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–0036 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 2E–103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Erica Lee, (202) 260–1463.

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: Study on Sustaining the Positive Effects of Preschool.

OMB Control Number: 1875—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 33.

Total Estimated Number of Annual Burden Hours: 29.

Abstract: The Policy and Program Studies Service (PPSS), within the U.S. Department of Education's Office of Planning, Evaluation and Policy Development, contracted with the American Institutes for Research to conduct five case studies on sustaining the positive effects of preschool. The case studies will provide detailed descriptions of five programs that help disadvantaged students in K–3 build on the positive effects of preschool or lead to positive cognitive, social-emotional, and academic outcomes by using policies, programs, and practices related to two key topic areas: (1) Preschool and K–3 alignment and (2) differentiated instruction. On-site case studies will include interviews with district officials, principals, Kindergarten teachers, preschool teachers, program funders, and program evaluators.

Dated: July 7, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–16890 Filed 7–9–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–83–000]

Joint Consumer Representatives v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on June 30, 2015, pursuant to sections 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), the Joint Consumer Representatives (Complainant) filed a formal complaint against PJM Interconnection, L.L.C, (Respondent) alleging that PJM Interconnection, L.L.C. has violated Federal Power Act Section 206 by failing to update its 2015 PJM Region Peak Load Forecast values, for purposes of the upcoming Capacity Performance Transition Incremental Auctions and 2015 Base Residual Auction, to reflect the impact of recent enhancements to PJM's load forecasting model that results in an enhanced load forecast.

The Complainant certify that copies of the complaint were served on the contacts for PJM Interconnection, L.L.C. as listed on the Commission's list of Corporate Officials.

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

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

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington,

DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 20, 2015.

Dated: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16889 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01P

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: PR15–35–001.

Applicants: Southcross Alabama Pipeline LLC.

Description: Submits tariff filing per 284.123(b), (e), (g): Revised Tariff filing to be effective 5/1/2015; Filing Type: 1270.

Filed Date: 6/30/15.

Accession Number: 20150630–5107.

Comments Due: 5 p.m. ET 7/21/15.

284.123(g) Protests Due: 5 p.m. ET 7/21/15.

Docket Numbers: RP15–1090–000.

Applicants: Monroe Gas Storage Company, LLC.

Description: Compliance filing Compliance Filing—FERC Order No. 801 System Maps to be effective 6/30/2015.

Filed Date: 6/30/15

Accession Number: 20150630–5136.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1091–000.

Applicants: Cadeville Gas Storage LLC.

Description: Compliance filing Compliance Filing—FERC Order No. 801 System Maps to be effective 6/30/2015

Filed Date: 6/30/15.

Accession Number: 20150630–5141.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1092–000.

Applicants: Perryville Gas Storage LLC, Perryville Gas Storage LLC.

Description: Compliance filing Compliance Filing—FERC Order No. 801 System Maps to be effective 6/30/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5144.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1093–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Section 4(d) Rate Filing: Amendment to Neg Rate Agmt (FPL 40097–14) to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5184.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1094–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Section 4(d) Rate Filing: Non-Conforming Agreement Update Filing to be effective 8/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5190.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1095–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Measurement Variance/Fuel Use Factors of Iroquois Gas Transmission System, L.P.

Filed Date: 6/30/15.

Accession Number: 20150630–5194.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1096–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Section 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Jul 2015 to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5199.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1097–000.

Applicants: Wyoming Interstate Company, L.L.C.

Description: Section 4(d) Rate Filing: Non-Conforming Agreement Update to be effective 8/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5202.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1098–000.

Applicants: Enable Gas Transmission, LLC.

Description: Section 4(d) Rate Filing: Negotiated Rate Filing—June 30 2015—Entergy 8791 LER 8744 and SWEPCO 6888 to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5243.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1099–000.

Applicants: Rockies Express Pipeline LLC.

Description: Section 4(d) Rate Filing: Neg Rate 2015–06–30 Mieco, Exelon, BP, Tenaska to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5258.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1100–000.

Applicants: National Fuel Gas Supply Corporation.

Description: Section 4(d) Rate Filing: Decoupled Releases to be effective 8/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5262.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1101–000.

Applicants: Big Sandy Pipeline, LLC.

Description: Section 4(d) Rate Filing: Big Sandy EPC 2015 to be effective 8/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5271.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1102–000.

Applicants: Texas Eastern Transmission, LP.

Description: Section 4(d) Rate Filing: EPC AUG 2015 FILING to be effective 8/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5274.

Comments Due: 5 p.m. ET 7/13/15.

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 date(s). 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: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16886 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1714–007.

Applicants: LG&E Energy Marketing Inc.

Description: Triennial Market Power Update for Central Region of LG&E Energy Marketing Inc.

Filed Date: 6/30/15.

Accession Number: 20150630–5467.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–3110–005; ER10–3144–006.

Applicants: Union Power Partners, L.P., Entegra Power Services LLC.

Description: Updated Market Power Analysis for Market-Based Rate Authority for Central Region of Union Power Partners, L.P., et al.

Filed Date: 6/30/15.

Accession Number: 20150630–5468.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER13–1371–002.

Applicants: GP Big Island, LLC.

Description: Compliance filing: Compliance filing to 8202018 to be effective 7/2/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5299.

Comments Due: 5 p.m. ET 7/22/15.

Docket Numbers: ER13–1653–002.

Applicants: FirstEnergy Solutions Corp.

Description: Compliance filing: Authorization for Affiliate Sales to be effective 6/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5165.

Comments Due: 5 p.m. ET 7/22/15.

Docket Numbers: ER15–1440–001.

Applicants: Midcontinent Independent System Operator, Inc., Cleco Power LLC.

Description: Compliance filing: 2015–07–01_Compliance Cleco-COA JPZ Agreement Filing to be effective 12/1/2014.

Filed Date: 7/1/15.

Accession Number: 20150701–5200.

Comments Due: 5 p.m. ET 7/22/15.

Docket Numbers: ER15–1905–002.

Applicants: AZ721 LLC.

Description: Tariff Amendment: Second Amendment to Market Based Rate Filing to be effective 8/11/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5227.

Comments Due: 5 p.m. ET 7/22/15.

Docket Numbers: ER15–2089–000.

Applicants: PJM Interconnection, L.L.C.

Description: Section 205(d) Rate Filing: Original Service Agreement No. 4158, Queue Position #None to be effective 6/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5188.

Comments Due: 5 p.m. ET 7/22/15.

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: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16882 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–2009–000]

2015 ESA Project Company, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of 2015 ESA Project Company, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 21, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16883 Filed 7–9–15; 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: PR15–38–000.

Applicants: SourceGas Distribution LLC.

Description: Submits tariff filing per 284.123(b)(1) + (g): Third Revised Statement of Operating Conditions to be effective 6/1/2015; Filing Type: 1300.

Filed Date: 6/30/15.

Accession Number: 20150630–5334.

Comments Due: 5 p.m. ET 7/21/15.

284.123(g) Protests Due: 5 p.m. ET 8/31/15.

Docket Numbers: PR14–31–002.

Applicants: MDU Resources Group, Inc.

Description: Submits tariff filing per 284.123/.224: Statement of Issues to be effective 5/20/2015; Filing Type: 790.

Filed Date: 6/19/15.

Accession Number: 20150619–5198.
Comments/Protests Due: 5 p.m. ET 7/10/15.
Docket Numbers: RP10–837–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DTI—Operational Gas Sales Report—2015.
Filed Date: 6/30/15.
Accession Number: 20150630–5273.
Comments Due: 5 p.m. ET 7/13/15.
Docket Numbers: RP10–900–000.
Applicants: Dominion Transmission, Inc.
Description: Report Filing: DTI—Informational Fuel Report 2015.
Filed Date: 6/30/15.
Accession Number: 20150630–5276.
Comments Due: 5 p.m. ET 7/13/15.

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 date(s). 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: July 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16888 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the PJM Interconnection, L.L.C. (PJM):

PJM Planning Committee

July 9, 2015, 9:30 a.m.–12:00 p.m. (EST)

PJM Transmission Expansion Advisory Committee

July 9, 2015, 11:00 a.m.–3:00 p.m. (EST)

The above-referenced meetings will be held at: PJM Conference and Training Center, PJM Interconnection, 2750 Monroe Boulevard, Audubon, PA 19403.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket Nos. ER15–738 and ER15–739, *PJM Interconnection, L.L.C.*
Docket No. ER15–596, *PJM Interconnection, L.L.C.*
Docket Nos. ER15–33, *et. al., The Dayton Power and Light Company.*
Docket No. ER15–994, *PJM Interconnection, L.L.C.*
Docket No. ER15–639, *PJM Interconnection, L.L.C.*
Docket No. ER15–61, *PJM Interconnection, L.L.C. and American Transmission Systems Incorporated.*
Docket No. ER14–2867, *Baltimore Gas & Electric Company, et al., and PJM Interconnection, L.L.C.*
Docket Nos. ER14–972 and ER14–1485, *PJM Interconnection, L.L.C.*
Docket No. ER14–1485, *PJM Interconnection, L.L.C.*
Docket No. ER14–2864, *PJM Interconnection, L.L.C.*
Docket No. ER13–90, *Public Service Electric and Gas Company and PJM Interconnection, L.L.C.*
Docket No. ER13–198, *PJM Interconnection, L.L.C.*
Docket Nos. ER13–1957, *et al., ISO New England, Inc. et. al.*
Docket No. ER13–195, *Indicated PJM Transmission Owners.*
Docket Nos. ER13–1944, *et al., PJM Interconnection, L.L.C.*
Docket No. ER15–1344, *PJM Interconnection, L.L.C.*
Docket No. ER15–1387, *PJM Transmission Owners.*
Docket No. EL15–40, *Public Service Electric and Gas Company* v. *PJM Interconnection, L.L.C.*
Docket No. EL15–18, *Consolidated Edison Company of New York, Inc.* v. *PJM Interconnection, L.L.C.*
Docket No. EL15–41, *Essential Power Rock Springs, LLC et. al.* v. *PJM Interconnection, L.L.C.*
Docket No. ER13–1927, *et al., PJM Interconnection- SERTP.*

For more information, contact the following:

Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6604, *Jonathan.Fernandez@ferc.gov.*
Alina Halay, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6474, *Alina.Halay@ferc.gov.*

Dated: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16884 Filed 7–9–15; 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: EC15–90–000.
Applicants: Lumens Energy Supply LLC, Aequitas Energy, Inc.
Description: Amendment to March 9, 2015 Joint Application under Section 203 of the Federal Power Act of Lumens Energy Supply LLC, et al.
Filed Date: 7/2/15.
Accession Number: 20150702–5263.
Comments Due: 5 p.m. ET 7/13/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2499–013; ER12–2498–013; ER13–764–013; ER11–4055–005; ER12–1566–007; ER14–1548–005; ER12–1470–005; ER11–3987–008; ER10–1290–006; ER14–474–003; ER14–1775–003; ER10–3026–005.
Applicants: Alpaugh North, LLC, Alpaugh 50, LLC, CED White River Solar, LLC, Copper Mountain Solar 1, LLC, Copper Mountain Solar 2, LLC, Copper Mountain Solar 3, LLC, Energia Sierra Juarez U.S., LLC, Mesquite Solar 1, LLC, San Diego Gas & Electric Company, Sempra Generation, LLC, SEP II, LLC, Termoelectrica U.S. LLC.
Description: Notice of Non-Material Change in Status of the SDG&E Sellers.
Filed Date: 7/2/15.
Accession Number: 20150702–5267.
Comments Due: 5 p.m. ET 7/23/15.
Docket Numbers: ER15–2104–000.
Applicants: California Independent System Operator Corporation
Description: § 205(d) Rate Filing: 2015–07–02 Amendment No. 2 to Riverside MSSA to be effective 9/1/2015.
Filed Date: 7/2/15.
Accession Number: 20150702–5247.
Comments Due: 5 p.m. ET 7/23/15.
Docket Numbers: ER15–2105–000.
Applicants: DTE Electric Company.
Description: § 205(d) Rate Filing: Triennial Market Power Tariff Update Filing to be effective 7/7/2015.
Filed Date: 7/6/15.

Accession Number: 20150706–5104.
Comments Due: 5 p.m. ET 9/4/15.

Docket Numbers: ER15–2106–000.
Applicants: DTE Energy Trading, Inc.
Description: § 205(d) Rate Filing: Triennial Market Power Filing Tariff Update to be effective 7/7/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5106.
Comments Due: 5 p.m. ET 9/4/15.

Docket Numbers: ER15–2107–000.
Applicants: DTE Pontiac North, LLC.
Description: § 205(d) Rate Filing: Triennial Market Power Tariff Update to be effective 7/7/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5109.
Comments Due: 5 p.m. ET 9/4/15.

Docket Numbers: ER15–2108–000.
Applicants: DTE Stoneman, LLC.
Description: § 205(d) Rate Filing: Triennial Market Power Tariff Updates to be effective 7/7/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5110.
Comments Due: 5 p.m. ET 9/4/15.

Docket Numbers: ER15–2109–000.
Applicants: St. Paul Cogeneration, LLC.
Description: § 205(d) Rate Filing: Triennial Market Power Tariff Updates to be effective 7/7/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5112.
Comments Due: 5 p.m. ET 9/4/15.

Docket Numbers: ER15–2110–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2015–07–06_SA 2815 Ameren-Prairie Power Construction Agreement (Tolono) to be effective 6/22/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5114.
Comments Due: 5 p.m. ET 7/27/15.

Docket Numbers: ER15–2111–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2015–07–06_SA 2816 Ameren-Praire Power Construction Agreement (St. Joseph) to be effective 6/22/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5117.
Comments Due: 5 p.m. ET 7/27/15.

Docket Numbers: ER15–2112–000.
Applicants: Cobb Electric Membership Corporation.
Description: § 205(d) Rate Filing: Triennial market power update to be effective 7/7/2015.
Filed Date: 7/6/15.
Accession Number: 20150706–5184.
Comments Due: 5 p.m. ET 9/4/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–36–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Amendment to June 19, 2015 Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Golden Spread Electric Cooperative, Inc.
Filed Date: 7/2/15.
Accession Number: 20150702–5262.
Comments Due: 5 p.m. ET 7/16/15.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF15–875–000.
Applicants: Erving Industries, Inc.
Description: Form 556 of Erving Industries, Inc.
Filed Date: 6/30/15.
Accession Number: 20150630–5480.
Comments Due: None Applicable.

Docket Numbers: QF15–877–000.
Applicants: Winston-Salem/Forsyth County Utility Commission
Description: Form 556 of Winston-Salem/Forsyth County Utility Commission.
Filed Date: 7/2/15.
Accession Number: 20150702–5264.
Comments Due: None Applicable.

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: July 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16879 Filed 7–9–15; 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: EC15–161–000.
Applicants: 65HK 8me LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of 65HK 8me LLC.
Filed Date: 6/30/15.
Accession Number: 20150630–5451.
Comments Due: 5 p.m. ET 7/21/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1276–004; ER10–1292–003; ER10–1287–003; ER10–1303–003; ER10–1319–005; ER10–1353–005.
Applicants: Consumers Energy Company, CMS Energy Resource Management Company, Grayling Generation Station Limited Partnership, Genesee Power Station Limited Partnership, CMS Generation Michigan Power, LLC, Dearborn Industrial Generation, L.L.C.
Description: Updated Market Power Analysis for the Central Region of Consumer Energy Company, et al.
Filed Date: 6/30/15.
Accession Number: 20150630–5450.
Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–2042–019; ER10–1938–014; ER10–1934–013; ER10–1893–013; ER10–1874–003; ER10–1863–004; ER10–1862–013; ER10–1933–003.
Applicants: Calpine Energy Services, L.P., Calpine Power America—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Mankato Energy Center, LLC, Power Contract Financing, L.L.C., RockGen Energy, LLC, Pine Bluff Energy, LLC.
Description: Updated Market Power Analysis for Central Region of the Calpine Central MBR Sellers.
Filed Date: 6/30/15.
Accession Number: 20150630–5441.
Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–2130–012.
Applicants: Forward Energy LLC.
Description: Triennial Report for Central Region of Forward Energy LLC.
Filed Date: 6/30/15.
Accession Number: 20150630–5439.
Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–2136–010.
Applicants: Invenergy Cannon Falls LLC.
Description: Triennial Report for Central Region of Invenergy Cannon Falls LLC.
Filed Date: 6/30/15.
Accession Number: 20150630–5405.
Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–2172–025; ER14–2144–004; ER12–2311–012; ER10–1048–022; ER10–2192–024;

ER15–1537–001; ER15–1539–001; ER10–2178–024; ER13–1536–008; ER12–2201–012; ER11–2011–021; ER11–2009–021; ER11–3989–017; ER10–1143–021.

Applicants: Baltimore Gas and Electric Company, Beebe 1B Renewable Energy, LLC, Beebe Renewable Energy, LLC, Commonwealth Edison Company, Constellation Energy Commodities Group Maine, LLC, Constellation Energy Services, Inc., Constellation NewEnergy, Inc., Exelon Generation Company, LLC, Harvest II Wind Farm, LLC, Harvest Windfarm, LLC, Michigan Wind 1, LLC, Michigan Wind 2, LLC, PECO Energy Company, Constellation Energy Services of New York, Inc.

Description: Updated Market Power Analysis for the Central Region of the Exelon Central MBRA Entities.

Filed Date: 6/30/15.

Accession Number: 20150630–5358.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–2738–003.

Applicants: The Empire District Electric Company.

Description: Updated Market Power Analysis of The Empire District Electric Company.

Filed Date: 6/30/15.

Accession Number: 20150630–5348.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–3069–006; ER10–3070–006.

Applicants: Alcoa Power Generating, Inc., Alcoa Power Marketing LLC.

Description: Updated Market Power Analysis for Central Region of Alcoa Power Generating, Inc. and Alcoa Power Marketing LLC.

Filed Date: 6/30/15.

Accession Number: 20150630–5377.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER10–3097–004.

Applicants: Bruce Power Inc.

Description: Updated Market Power Analysis for the Central Region of Bruce Power Inc.

Filed Date: 6/30/15.

Accession Number: 20150630–5434.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER11–2105–001.

Applicants: Oklahoma Gas and Electric Company.

Description: Updated Market Power Analysis for Southwest Power Pool, Inc. Balancing Area Authority of Oklahoma Gas and Electric Company.

Filed Date: 6/30/15.

Accession Number: 20150630–5447.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER11–2159–005; ER10–2602–012; ER10–2609–011; ER10–2606–011.

Applicants: Verso Maine Energy LLC, NewPage Energy Services LLC, Escanaba Paper Company, Consolidated Water Power Company.

Description: Updated Market Power Analysis for the Central Region of Verso MBR Entities.

Filed Date: 6/30/15.

Accession Number: 20150630–5442.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER11–4044–013.

Applicants: Gratiot County Wind LLC.

Description: Triennial Report for Central Region of Gratiot County Wind LLC.

Filed Date: 6/30/15.

Accession Number: 20150630–5440.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER11–4046–012.

Applicants: Gratiot County Wind II LLC.

Description: Triennial Report for Central Region of Gratiot County Wind II LLC.

Filed Date: 6/30/15.

Accession Number: 20150630–5415.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER12–164–011.

Applicants: Bishop Hill Energy III LLC.

Description: Triennial Report for Central Region of Bishop Hill Energy III LLC.

Filed Date: 6/30/15.

Accession Number: 20150630–5438.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER12–645–013.

Applicants: California Ridge Wind Energy LLC.

Description: Triennial Report of California Ridge Wind Energy LLC.

Filed Date: 6/30/15.

Accession Number: 20150630–5437.

Comments Due: 5 p.m. ET 8/31/15.

Docket Numbers: ER15–2085–000.

Applicants: Dow Pipeline Company.

Description: Section 205(d) Rate Filing: Revisions to Market-Based Rate Tariff to be effective 8/29/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5297.

Comments Due: 5 p.m. ET 7/21/15.

Docket Numbers: ER15–2086–000.

Applicants: California Independent System Operator Corporation.

Description: Section 205(d) Rate Filing: 2015–06–30 CCSF OA—Rate Schedule No. 64 to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5339.

Comments Due: 5 p.m. ET 7/21/15.

Docket Numbers: ER15–2087–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Section 205(d) Rate Filing: PASNY Standby Amendment to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5343.

Comments Due: 5 p.m. ET 7/21/15.

Docket Numbers: ER15–2088–000.

Applicants: New England Power Pool Participants Committee.

Description: Section 205(d) Rate Filing: June 30 2015 Membership Filing to be effective 7/1/2015.

Filed Date: 6/30/15.

Accession Number: 20150630–5345.

Comments Due: 5 p.m. ET 7/21/15.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR15–13–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of North American Electric Reliability Corporation for Approval of Amendments to the Bylaws of Southwest Power Pool, Inc.

Filed Date: 6/30/15.

Accession Number: 20150630–5356.

Comments Due: 5 p.m. ET 7/21/15.

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: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16881 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–1089–000]

Rice Energy Marketing LLC; Notice of Petition for Declaratory Order

Take notice that on June 29, 2015, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2014), Rice Energy Marketing LLC filed a petition for a declaratory order seeking

a declaratory order clarifying that the Order No. 712 exemption from the buy-sell prohibition applies to supply-side asset management agreements (AMAs) on the same basis as delivery-side AMAs, all as more fully explained in the petition.

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

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

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

Comment Date: 5:00 p.m. Eastern time on July 29, 2015.

Dated: July 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16885 Filed 7–9–15; 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: RP15–1103–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Expired Agreements to be effective 8/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5004.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1104–000.

Applicants: ANR Storage Company.

Description: § 4(d) Rate Filing: United Energy Trading Agmt to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5051.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1105–000.

Applicants: WTG Hugoton, LP.

Description: Compliance filing Annual Fuel Retention Percentage Filing 2015–2016 to be effective 8/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5117.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1106–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreement—7/01/2015 to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5124.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1107–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: 2015–07–01 Perm Rel of existing NRA (to Twin Eagle) to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5156.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1108–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Remove Expired Agreements and References to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5181.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1109–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Atlanta 8438 to various eff 7/1/15) to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5182.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1110–000.

Applicants: Dominion Transmission, Inc.

Description: Compliance filing DTI—2015 Overrun and Penalty Revenue Distribution to be effective N/A.

Filed Date: 7/1/15.

Accession Number: 20150701–5197.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1111–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt (FPL 41618–13) to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5201.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1112–000.

Applicants: Enable Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Filing—July 2015 Removal of Expired Negotiated Rate Contracts to be effective 7/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5202.

Comments Due: 5 p.m. ET 7/13/15.

Docket Numbers: RP15–1113–000.

Applicants: MIGC LLC.

Description: § 4(d) Rate Filing: Annual Fuel Retention Percentage Tracker to be effective 8/1/2015.

Filed Date: 7/1/15.

Accession Number: 20150701–5251.

Comments Due: 5 p.m. ET 7/13/15.

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: July 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–16887 Filed 7–9–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9021–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs)
Filed 06/29/2015 Through 07/03/2015
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20150182, Final, VA, CA, San Francisco Veterans Affairs Medical Center Long Range Development Plan, Review Period Ends: 08/09/2015, Contact: Robin Flanagan 415–750–2049.

EIS No. 20150183, Final, HUD, CA, Sunnydale-Velasco HOPE SF Master Plan Project, Review Period Ends: 08/10/2015, Contact: Eugene Flannery 415–701–5598.

EIS No. 20150184, Draft, USFS, MT, Telegraph Vegetation Project, Comment Period Ends: 08/24/2015, Contact: Allen Byrd 406–449–5201.

EIS No. 20150185, Draft Supplement, USACE, NC, Figure Eight Island Shoreline Management Project Comment Period Ends: 08/24/2015, Contact: Mickey Sugg 910–251–4811.

EIS No. 20150186, Draft, USACE, CA, Redwood City Harbor Navigation Improvement, Comment Period Ends: 08/24/2015, Contact: Eric Jolliffe 415–503–6869.

EIS No. 20150187, Final, USFS, CA, Master Special Use Permit and Permit to Construct Power Line Replacement Projects, Review Period Ends: 08/24/2015, Contact: Jeff Heys 858–674–2959.

EIS No. 20150188, Final, USACE, SC, Charleston Harbor Post 45, Review Period Ends: 08/10/2015, Contact: Bret Walters 843–329–8050.

Amended Notices

EIS No. 20150061, Draft, CALTRANS, CA, SR 710 North Improvements, Comment Period Ends: 08/05/2015, Contact: Garrett Damrath 213–897–0357 Revision to FR Notice Published 03/13/2015; Extending Comment Period from 07/06/2015 to 08/05/2015.

EIS No. 20150109, Draft, STB, MT, Tongue River Railroad, Comment Period Ends: 08/24/2015, Contact: Ken Blodgett 1–866–622–4355 Revision to FR Notice Published 04/24/2015; Extending Comment Period from 06/23/2015 to 08/24/2015.

EIS No. 20150151, Draft, USFS, CO, Spruce Beetle Epidemic and Aspen Decline Management Response, Comment Period Ends: 07/31/2015, Contact: Scott Williams 760–382–7371 Revision to FR Notice Published 05/29/2015; Extending Comment Period from 07/14/2015 to 07/31/2015.

Dated: July 7, 2015.

Karin Leff,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015–16938 Filed 7–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9930–39–OA]

Meetings of the Local Government Advisory Committee and the Small Communities Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Small Communities Advisory Subcommittee (SCAS) will meet in Washington, DC, on Friday, July 31, 2015, 8:00 a.m.–9:00 a.m. (EDT). The Subcommittee will discuss rural strategy; E-Enterprise; and other issues and recommendations to the Administrator regarding environmental issues affecting small communities. The Local Government Advisory Committee (LGAC) will meet in Washington, DC, on Thursday, July 30, 2015, 8:15 a.m.–5:30 p.m. (EDT), and Friday, July 31, 2015, 9:15 a.m.–12:40 p.m. (EDT). The focus of the Committee meeting will be on issues pertaining to protecting America's waters; hydrofracturing; cleaning up our communities; air, climate and energy; and climate change resiliency and sustainability.

These are open meetings, and all interested persons are invited to participate. The SCAS will hear comments from the public between 8:35 a.m. and 8:45 a.m. on Friday, July 31, 2015, and the LGAC will hear comments from the public between 9:30 a.m. and 9:45 a.m. on Friday, July 31, 2015. Individuals or organizations wishing to address the Subcommittee or the Committee will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *eargle.frances@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule a time on the agenda. Time will be allotted on a first-come first-serve basis, and the total period for comments may be extended if the number of requests for appearances requires it.

ADDRESSES: The Small Communities Advisory Subcommittee meetings will be held at the U.S. Environmental Protection Agency, Conference Room William Jefferson Clinton Building North, Room 6045, 1200 Pennsylvania Ave. NW., Washington, DC 20460. The Local Government Advisory Committee meetings will be held at the U.S. Environmental Protection Agency, William Jefferson Clinton Building North, Room 6045, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Meeting summaries will be available after the meeting online at *www.epa.gov/ocir/scas_lgac/lgac_index.htm* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Local Government Advisory Committee (LGAC) and Small Communities Advisory Subcommittee (SCAS), contact Frances Eargle, Designated Federal Officer, at (202) 564–3115 or email at *eargle.frances@epa.gov.*

Information on Services for Those With Disabilities: For information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or email at *eargle.frances@epa.gov.* To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 27, 2015.

Frances Eargle,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2015–16923 Filed 7–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9929–19-Region-10]

Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permit for the U.S. Department of Energy-Hanford Operations, Benton County, Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the Environmental Protection Agency (EPA) Administrator signed an Order, dated May 29, 2015, partially granting and partially denying two petitions filed by Bill Green of Richland, Washington (dated April 23, 2013, and April 21, 2014) asking the EPA to object to the title V operating permit (Permit No. 00–05–006, Renewal 2 and Permit No. 00–05–006, Renewal 2, Revision A) issued by the Washington State Department of Ecology (Ecology) to the U.S. Department of Energy-Hanford Operations (DOE) relating to the Hanford site located in south central Washington. Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may ask for judicial review by the United States Court of Appeals for the appropriate circuit of those portions of the Order that denies objections raised in the petitions.

DATES: Petitions for review of this Order must be filed by September 8, 2015, pursuant to section 307(b) of the CAA.

ADDRESSES: You may review copies of the final Order, the petitions, and other supporting information during normal business hours at EPA Region 10, 1200 Sixth Avenue, Seattle, Washington. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order is available electronically at: *http://www.epa.gov/region07/air/title5/petitiondb/petitions/hanford_response2014.pdf.*

FOR FURTHER INFORMATION CONTACT: Don Dossett at telephone number: (206) 553–1783, email address: *dossett.donald@epa.gov,* or the above EPA Region 10 address.

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review, and object to, as appropriate, a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator, within 60 days after the expiration of this review period, to object to a title V operating permit if the EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for the objection or other issues arose after this period.

The claims are described in detail in Section IV of the Order. In summary, the issues raised are that: (1) The structure of the Hanford Title V Permit does not provide Ecology the authority to issue a permit that assures compliance with all applicable requirements, in particular, 40 CFR part 61, subpart H (Subpart H) relating to radionuclide air emissions (radionuclides); (2) the structure of the Hanford Title V Permit does not provide Ecology with authority to enforce the portions of the Hanford Title V Permit relating to Subpart H; (3) Ecology did not comply with the requirements for public participation in issuing the Hanford Title V Permit; (4) the permit issuance procedures for the Hanford Title V Permit prevent access to judicial review; (5) the statement of basis for the Hanford Title V Permit related to radionuclides is inadequate; and (6) the Hanford Title V Permit does not include all applicable CAA Section 112 requirements for radionuclides.

The EPA's rationale for partially granting and partially denying the claims raised in the petitions is described in the Order.

Dated: June 22, 2015.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

[FR Doc. 2015–16920 Filed 7–9–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1200]

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 Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1200.

Title: Rural Broadband Experiments and Post-Selection Review of Rural Broadband Experiment Winning Bidders.

Form Number: FCC Form 5620.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 47 respondents; 135 responses.

Estimated Time per Response: 2 to 20 hours.

Frequency of Response: One-time and occasional reporting requirements; annual recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154 and 254.

Total Annual Burden: 1,834 hours.

Total Annual Cost: No cost(s).

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information collected in FCC Form 5620 will be confidential. Information reported in the November interim progress report and the build-out milestone certifications will be made publicly available.

Needs and Uses: On January 31, 2014, the Commission released the Tech Transitions et al., GN Docket No. 13–5 et al., 29 FCC Rcd 1433 (2014) (*Tech Transitions Order*), that adopted targeted experiments to explore the impact of technology transitions on rural Americans, including those living on Tribal lands. On July 14, 2014, the Commission released Connect America Fund et al., WC Docket No. 10–90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 14–98 (rel. July 14, 2014) (*Rural Broadband Experiments Order*), which established certain parameters and requirements for the rural broadband experiments adopted by the Commission in the *Tech Transitions Order.*

This information collection addresses requirements to carry out the rural broadband experiments the Commission adopted in the *Tech Transitions Order* and the *Rural Broadband Experiments Order.* The Commission has received OMB approval for most of the information collections required by the orders. At a later date, the Commission plans to submit additional revisions to a separate information collection for OMB's review to address other reporting requirements adopted in the *Rural Broadband Experiments Order.* For this revision, subject to OMB approval, the Commission proposes to incorporate the November interim progress report, build-out milestone certifications, and recordkeeping requirements that the Commission adopted in the *Rural Broadband Experiments Order.* If approved, recipients of the rural broadband experiments will be required to submit a one-time report on November 1st after they begin receiving support. This report must describe the status of the recipient's experiment as of September 30th immediately preceding the report (*i.e.,* whether vendors have been hired, permits have been obtained, and construction has begun), and include evidence demonstrating which locations if any the recipient has built out to in its project areas and evidence demonstrating that the recipient is meeting the public service obligations for the relevant experiment category, including a certification that demonstrates the service the recipient offers complies with the Commission's latency requirements. Rural broadband experiment recipients will also be required to certify that they have met the build-out milestones adopted in the *Rural Broadband Experiments Order.* These certifications will be due for all recipients by the end of the third year and fifth year of support. Recipients that have chosen to receive 30 percent of their support upfront will also be required to submit a build-out milestone certification within 15 months of their first disbursement. Recipients that are determined to not be in compliance with the terms and conditions of the rural broadband experiments during their support term will also be required to submit a certification to demonstrate that they have come into compliance. All of these certifications must be accompanied by the same types of evidence required for the November interim progress report. This report and certifications will enable the Commission to monitor the progress of the rural broadband experiments and ensure that the support is being used for its intended purposes. Finally, rural broadband experiment recipients will be subject to a 10-year record retention requirement and must make those documents and records available to the Commission, any of its Bureaus or Offices, the Universal Service Administrative Company, and their respective auditors to aid these entities in overseeing the recipients' compliance with the terms and conditions of rural broadband experiment support. The Commission also proposes to eliminate FCC Form 5610 that is a part of this information collection. The deadline to file FCC Form 5610 with the Commission was November 7, 2014. Because the Commission does not anticipate holding another round of bidding, no additional entities will be required to file FCC Form 5610. There are no proposed changes to the currently approved FCC Form 5620 which is also a part of this information collection. However, the Commission proposes to increase the number of respondents involved in the post-selection review because more winning bidders were provisionally selected than the Commission anticipated.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–16854 Filed 7–9–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-xxxx, 3060–0349, 3060–0214, 3060–0113, 3060–0922, 3060–1065]

Information Collections Being Reviewed by the Federal Communications Commission

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 Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 8, 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: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-xxxx.

Title: SDARS Political Broadcasting Requirements.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in 47 U.S.C. 309(a) and 307(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR 0.459 of the Commission's Rules).

Privacy Impact Assessment: No impact(s).

Needs and Uses: In 1997, the Commission imposed political broadcasting requirements on Satellite Digital Audio Broadcasting Service (''SDARS'') licensees. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5792, para. 92 (1997) (''1997 SDARS Order''), FCC 97–70. The Commission stated that SDARS licensees should comply with the same substantive political debate provisions as broadcasters: the federal candidate access provision (47 U.S.C. Section 312(a)(7)) and the equal opportunities provision (47 U.S.C. Section 315). The 1997 SDARS Order imposes the following requirements on SDARS licensees:

Lowest unit charge: Similar to broadcasters, SDARS licensees must disclose any practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time. SDARS licensees must also calculate the lowest unit charge and are required to review their advertising records throughout the election period to determine whether compliance with this rule section requires that candidates receive rebates or credits. *See* 47 CFR Section 73.1942.

Political file: Similar to broadcasters, SDARS licensees must also keep and permit public inspection of a complete record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. See 47 CFR 73.1943.

OMB Control Number: 3060–0349.

Title: Equal Employment Opportunity (''EEO'') Policy, 47 CFR Sections 73.2080, 76.73, 76.75, 76.79 and 76.1702.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions.

Number of Respondents and Responses: 14,179 respondents; 14,179 responses.

Estimated Time per Response: 42 hours.

Frequency of Response: Recordkeeping requirement; annual reporting requirement; five year reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended, and Section 634 of the Cable Communications Policy Act of 1984.

Total Annual Burden: 595,518 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR Section 73.2080 provides that equal opportunity in employment shall be afforded by all broadcast stations to all qualified persons and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin or sex. Section 73.2080 requires that each broadcast station employment unit with 5 or more full-time employees shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a broadcast station's policy and practice. These same requirements also apply to Satellite Digital Audio Radio Service (''SDARS'') licensees.

Revised Information Collection Requirement:

In 1997, the Commission determined that SDARS licensees must comply with the Commission's EEO requirements. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791, ¶ 91 (1997) (''1997 SDARS Order''), FCC 97–70. In 2008, the Commission clarified that SDARS licensees must comply with the Commission's EEO broadcast rules and policies, including the same recruitment, outreach, public file, Web site posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, as well as any other Commission EEO policies. See Applications for Consent to the Transfer of Control of Licenses, SM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (''XM-Sirius Merger Order'').

The Commission is making this submission to the Office of Management and Budget for approval to add SDARS licensees to this information collection.

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions; individuals or households.

Number of Respondents and Responses: 24,559 respondents; 63,235 responses.

Estimated Time per Response: 1—104 hours

Frequency of Response: Recordkeeping requirement; on occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,375,337 hours.

Total Annual Cost: $882,631.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR 0.459.

Privacy Impact Assessment: Should respondents submit any PII as part of the information collection requirements, the FCC has an existing system of records, FCC/MB–1, ''Ownership of Commercial Broadcast Stations,'' that may partially cover this PII. In addition, the Commission has prepared a second system of records notice, FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that will cover the PII contained in the broadcast station public inspection files to be located on the Commission's Web site. The Commission is also drafting a PIA for the records covered by this SORN.

Needs and Uses: Satellite Radio (also referred to as ''Satellite Digital Audio Radio Services'' or ''SDARS'') licensees are required to comply with the Commission's EEO broadcast rules and policies, including public file obligations and periodic submissions to the Commission. See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (''XM-Sirius Merger Order''). See also Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791–92, ¶¶ 91–92 (1997) (''SDARS Order''), FCC 97–70. This collection is being revised to reflect the burden associated with the EEO public file requirements.

OMB Control Number: 3060–0113.

Title: Broadcast EEO Program Report, FCC Form 396.

Form Number: FCC Form 396.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions.

Number of Respondents and Responses: 2,001 respondents; 2,001 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On renewal reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 3,002 hours.

Total Annual Cost: $300,300.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Broadcast Equal Employment Opportunity (EEO) Program Report, FCC Form 396, is a device that is used to evaluate a broadcaster's EEO program to ensure that satisfactory efforts are being made to comply with FCC's EEO requirements. FCC Form 396 is required to be filed at the time of renewal of license by all AM, FM, TV, Low Power TV and International stations. Licensees in the Satellite Digital Audio Radio Service (''SDARS'') also must file FCC Form 396.

The recordkeeping requirements for FCC Form 396 are covered under OMB control number 3060–0214.

Revised Collection Requirement:

In 1997, the Commission determined that SDARS licensees must comply with the Commission's EEO requirements. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791, ¶ 91 (1997) (''1997 SDARS Order''), FCC 97–70. In 2008, the Commission clarified that SDARS licensees must comply with the Commission's EEO broadcast rules and policies, including the same recruitment, outreach, public file, Web site posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, as well as any other Commission EEO policies. See Applications for Consent to the Transfer of Control of Licenses, SM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (''XM-Sirius Merger Order'').

The Commission is making this submission to the Office of Management and Budget for approval to add SDARS licensees to this information collection.

OMB Control Number: 3060–0922.

Title: Broadcast Mid-Term Report, FCC Form 397.

Form Number: FCC Form 397.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-profit institutions.

Number of Respondents and Responses: 1,181 respondents; 1,181 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: Mid-point reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 154(i) and 303 of the Communications Act, as amended.

Total Annual Burden: 591 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Broadcast Mid-Term Report (FCC Form 397) is required to be filed by each broadcast television station that is part of an employment unit with five or more full-time employees and each broadcast radio station that is part of an employment unit with more than ten full-time employees. It is a data collection device used to assess broadcast compliance with EEO outreach requirements in the middle of license terms that are eight years in duration. FCC Form 397 must also be filed by Satellite Digital Audio Radio Services (SDARS) licensees to assess compliance with EEO outreach requirements.

Revised Information Collection Requirements Which Require Approval and Review by the Office of Management and Budget (OMB):

Satellite Radio (also referred to as ''Satellite Digital Audio Radio Services'' or ''SDARS'') licensees are required to comply with the Commission's EEO broadcast rules and policies. They must engage in the same recruitment, outreach, public file, Web site posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, consistent with 47 CFR 73.2080, and are subject to the same EEO policies. See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (''XM-Sirius Merger Order''). See also Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5791–92, ¶¶ 91–92 (1997) (''SDARS Order''), FCC 97–70. This collection is being revised to reflect the burden associated with filing FCC Form 397 by SDARS licensees. Therefore, these respondents are being

added as respondents to this collection. The form is not being revised.

OMB Control Number: 3060–1065.

Title: Section 25.701 of the Commission's Rules, Direct Broadcast Satellite Public Interest Obligations.

Form Number: N/A.

Type of Review: Reinstatement of a previously approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2 respondents; 2 responses.

Estimated Time per Response: 1–10 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; one time reporting requirement; annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 335 of the Communications Act of 1934, as amended.

Total Annual Burden: 50 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR 0.459 of the Commission's Rules).

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission vacated an Order on Reconsideration, In the Matter of Implementation Of Section 25 Of The Cable Television Consumer Protection And Competition Act Of 1992, Direct Broadcast Satellite Public Interest Obligations, MM No. Docket 93–25 FCC 03–78, adopted April 9, 2003 and adopted in its place, in the same proceeding, a Second Order on Reconsideration of the First Report and Order, Sua Sponte Order on Reconsideration (''Second Order'') and accompanying rules FCC 04–44, released March 25, 2004. The Second Order differs from the Order on Reconsideration with respect to two issues: (1) The political broadcasting requirements, and (2) the guidelines concerning commercialization of children's programming.

47 CFR 25.701(c)(1)(i)(C) states DBS providers may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time sensitive make goods. DBS providers may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

47 CFR 25.701(c)(1)(i)(D) states DBS providers may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

47 CFR 25.701(c)(1)(i)(E) states DBS providers may treat non preemptible and fixed position as distinct classes of time provided that they articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

47 CFR 25.701(c)(1)(i)(I) states DBS providers shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, DBS providers shall issue such rebates or credits promptly.

47 CFR 25.701(c)(1)(i)(M) states DBS providers must disclose and make available to candidates any make good policies provided to commercial advertisers. If a DBS provider places a make good for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

47 CFR 25.701(c)(1)(ii) states at any time other than the respective periods set forth in paragraph (c)(1)(i) of this section, DBS providers may charge legally qualified candidates for public office no more than the charges made for comparable use of the facility by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the DBS provider would charge for comparable commercial advertising. All discount privileges otherwise offered by a DBS provider to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

47 CFR 25.701(d) states each DBS provider shall keep and permit public inspection of a complete and orderly political file and shall prominently disclose the physical location of the file, and the telephonic and electronic means to access the file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for DBS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The ''disposition'' includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) DBS providers shall place all records required by this section in a file available to the public as soon as possible and shall be retained for a period of four years until December 31, 2006, and thereafter for a period of two years.

47 CFR 25.701(e)(3) requires DBS providers airing children's programming must maintain records sufficient to verify compliance with this rule and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

47 CFR 25.701(f)(6) states that each DBS provider shall keep and permit public inspection of a complete and orderly record of:

(A) Quarterly measurements of channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its response to any capacity changes;

(B) A record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity;

(C) A record of entities that have requested capacity, disposition of those requests and reasons for the disposition.

(ii) All records required by this paragraph shall be placed in a file available to the public as soon as possible and shall be retained for a period of two years.

The statutory authority which covers this information collection is contained in 47 U.S.C. 335 of the Communications Act of 1934, as amended.

Revised Information Collection Requirements:

The Commission is reinstating this collection into the Office of Management and Budget's (OMB's) inventory because after further evaluation the Commission has determined that this collection is still

needed by the Commission because DBS providers make up the majority of their universe of respondents. Since this is the case, OMB approval is still need for this collection.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–16853 Filed 7–9–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064–0090, 3064–0111, 3064–0136, 3064–0138 & 3064–0171)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on the renewal of the information collections described below.

DATES: Comments must be submitted on or before September 8, 2015.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*.
- *Email: comments@fdic.gov*. Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, John W. Popeo (202.898.6923), Counsel MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper or John W. Popeo, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collections of information:

1. *Title:* Public Disclosure by Banks.
OMB Number: 3064–0090.
Affected Public: Insured state nonmember banks.
Frequency of Response: Annually.
Estimated Number of Respondents: 4,084.
Estimated Time per Response: 0.5
Total Annual Burden: 2,042 hours.
General Description: 12 CFR part 350 requires a bank to notify the general public, and in some instances shareholders, that financial disclosure statements are available by request. Required disclosures consist of financial reports for the current and preceding year, which can be photocopied directly from the year-end call reports. The FDIC may also require, on a case-by-case basis, that descriptions of enforcement actions be included in disclosure statements. This regulation allows, but does not require, the inclusion of management discussion and analysis.

2. *Title:* Activities and Investments of Insured State Banks.
OMB Number: 3064–0111.
Form Numbers: None.
Frequency of Response: On occasion.
Affected Public: Insured state nonmember banks.
Estimated Number of Respondents: 110.
Estimated Time per Response: 8 hours.
Total Annual Burden: 880 hours.
General Description: Section 24 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1831a, limits investments and other activities in which state banks may engage as principal to those permissible for national banks and those approved by the FDIC under procedures set forth in Part 362 of the FDIC's Rules and Regulations, 12 CFR part 362. With certain exceptions, section 24 of the FDI Act limits the direct equity investments of state chartered banks to equity investments that are permissible for national banks. In addition, the statute prohibits an insured state bank from directly engaging, as a principal, in any activity that is not permissible for a national bank, or indirectly through a subsidiary in an activity that is not permissible for a subsidiary of a national bank, unless such bank meets its minimum capital requirements and the FDIC determines that the activity does not pose significant risk to the Deposit Insurance Fund. The FDIC can make such a determination for exception by regulation or by order. The FDIC's implementing regulation for section 24 is 12 CFR part 362. This regulation details the activities that insured state nonmember banks or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or nonobjection.

3. *Title:* Privacy of Consumer Financial Information.
OMB Number: 3064–0136.
Form Numbers: None.
Frequency of Response: On occasion.
Affected Public: Insured state nonmember banks and consumers.
Estimated Number of Respondents: Initial notice, 208; annual notice and change in terms 4,084; opt-out notice, 866; consumer opt-out/status update, 212,432.
Estimated Number of Responses: 217,590.
Total Annual Burden: 162,456 hours.
General Description: The elements of this collection are required under section 504 of the Gramm-Leach-Bliley Act, Public Law 106–102. Thecollection mandates notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

4. *Title:* Applicant Background Questionnaire.
OMB Number: 3064–0138.
Form Number: FDIC 2100/14.
Frequency of Response: On occasion.
Affected Public: FDIC job applicants who are not current FDIC employees.
Estimated Number of Respondents: 30,000.
Estimated Time per Response: 3 minutes.
Total Annual Burden: 1,500 hours.
General Description: The FDIC Applicant Background Questionnaire is voluntarily completed by prospective FDIC job applicants who are not current employees. Responses to survey questions provide information regarding gender, age, disability, race, and national origin. Additional survey questions address the applicant's source of vacancy announcement information. Data is used by the FDIC Office of Minority and Women Inclusion and the FDIC Human Resources Branch to evaluate the efficacy of various FDIC recruitment methods used to ensure that the agency meets workforce diversity objectives.

5. *Title:* Registration of Mortgage Loan Originators.
OMB Number: 3064–0171.
Total Estimated Annual Burden: 608,867, which is comprised of:

A. *Financial Institution Policies and Procedures for Ensuring Employee-Mortgage Loan Originator Compliance with S.A.F.E. Act Requirements Affected Public.*
Affected Public: FDIC-supervised institutions.
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 20 hours.
Estimated Annual Burden: 81,600 hours.

B. *Financial Institution Procedures to Track and Monitor Compliance with S.A.F.E. Act.*
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 60 hours.
Estimated Annual Burden: 244,800 hours.

C. *Financial Institution Procedures for the Collection and Maintenance of Employee Mortgage Loan Originators Criminal History Background Reports.*
Affected Public: FDIC-supervised institutions.
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 20 hours.
Estimated Annual Burden: 81,600 hours.

D. *Financial Institution Procedures for Public Disclosure of Mortgage Loan Originator's Unique Identifier.*
Affected Public: FDIC-supervised institutions.
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 25 hours.
Estimated Annual Burden: 102,000 hours.

E. *Financial Institution Information Reporting to Registry.*
Affected Public: FDIC-supervised institutions.
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 15 minutes.
Estimated Annual Burden: 1,020 hours.

F. *Financial Institution Procedures for the Collection of Employee Mortgage Loan Originator's Fingerprints.*
Affected Public: FDIC-supervised institutions.
Estimated Number of Respondents: 4,080.
Frequency of Response: Annually.
Estimated Time per Response: 4 hours.
Estimated Annual Burden: 16,320 hours.

G. *Mortgage Loan Originator Initial and Annual Renewal Registration Reporting and Authorization Requirements.*
Affected Public: Employee Mortgage Loan Originators.
Estimated Number of Respondents: 59,592.
Frequency of Response: Annually.
Estimated Time per Response: 15 minutes.
Estimated Annual Burden: 14,898 hours.

H. *Mortgage Loan Originator Registration Updates Upon Change in Circumstances.*
Affected Public: Employee Mortgage Loan Originators.
Estimated Number of Respondents: 29,646.
Frequency of Response: On occasion.
Estimated Time per Response: 15 minutes.
Estimated Annual Burden: 7,412 hours.

I. *Mortgage Loan Originator Procedures for Disclosure to Consumers of Unique Identifier.*
Affected Public: Employee Mortgage Loan Originators.
Estimated Number of Respondents: 59,292.
Frequency of Response: Annually.
Estimated Time per Response: 1 hour.
Estimated Annual Burden: 59,292 hours.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the collections of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 7th day of July 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–16910 Filed 7–9–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Notice; Amendment

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 29, 2015, the Board published a notice of final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. The Board did not include in the June 2015 notice information related to the public comment period. Accordingly, this notice supplements the June 2015 notice providing information related to the public comment period for transparency.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The following information was not included in the June 2015 notice.

On April 14, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 19986) requesting public comment for 60 days on the extension, without revision, of the Requirements Associated with Changes in Foreign Investments (Made Pursuant to Regulation K (FR 2064)), Microeconomic Survey (FR 3051), and Recordkeeping and Disclosure Provisions associated with Stress Testing Guidance. The comment period for this notice expired on June 15, 2015. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, July 1, 2015.

Robert de V. Frierson,

Secretary of the Board.

[FR Doc. 2015–16719 Filed 7–9–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-15–15ASI; Docket No. CDC–2015–0051]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on a proposed field survey to assess safety and health hazards to workers in oil and gas (O&G) extraction.

DATES: Written comments must be received on or before September 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0051 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Assessing Safety and Health Hazards to Workers in Oil and Gas Extraction: A Survey—New—Information Collection Request—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, 91 (section 20[a][1]), authorizes NIOSH to conduct research to advance the health and safety of workers. NIOSH is proposing a three year study to conduct a survey questionnaire of 500 land-based oil and gas (O&G) extraction workers in 3 U.S. states (Texas, North Dakota, and a state in the Appalachian Basin) to examine safety and health issues and concerns of this workforce. Workers who drive as a part of their work duties will be asked to complete an additional set of questions about their driving environment and behaviors. We expect a response rate of 80%, so it is estimated that we will approach 625 workers in order to have 500 workers complete the survey.

The goals of this study are (1) To determine on-duty and off-duty factors that contribute to motor vehicle crashes, injuries and illness among U.S. land-based O&G extraction workers and (2) To identify other safety and health needs and concerns of U.S. land-based O&G extraction workers, a largely non-unionized workforce. The results of this study will guide the development of evidence-based and priority interventions and future research in the O&G extraction industry that will improve the safety and health of O&G workers.

Administration of the survey questionnaire will occur at temporary modular lodging facilities ('man camps'), training centers, equipment/trucking yards, well sites, and community centers in oilfield towns. A screening questionnaire, ''Module 1: Screening'' will be administered to 313 workers per year (for 2 years) to determine that the worker is eligible for the survey. This questionnaire will take about 5 minutes. NIOSH anticipates that up to 63 workers per year (20% of screened workers) will be eligible but not interested in participating in this study. These workers will be asked to complete a brief, 6-question ''Non-Respondent Questionnaire'', which will take about 5 minutes. Approximately 250 workers per year (for 2 years) will be eligible and agree to participate in the study (80% response rate). These workers will complete ''Module 2: General,'' ''Module 3: Well-site work,'' and ''Module 5: Closing Questions'' (approximately 225 workers will use the tablet version and 25 will opt to use the hardcopy version). ''Module 5: Closing

Questions'' includes a brief interview with program staff. The questionnaire and interview will take approximately 40 minutes to complete for workers using the tablet, or 50 minutes for those using the hardcopy version. Workers who drive a company vehicle will also be asked to complete ''Module 4: Motor Vehicle.'' An estimated 75% of the workers will complete the driving portion of the survey (187 workers). This module will take approximately 10 additional minutes to complete for those using the tablet (approximately 168 workers per year), or 20 minutes for those completing the hardcopy version (19 workers per year).

The total estimated burden hours are 236. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Presumed O&G Extraction Workers	Module 1: Screening	313	1	5/60	26
O&G Extraction Workers	Non Respondent Questionnaire	63	1	5/60	5
O&G Extraction Workers	Tablet Version Modules 2: General Module 3: Well Site Work, and Module 5: Closing Questions.	225	1	40/60	150
O&G Extraction Workers	Hardcopy Version Modules 2: General Module 3: Well Site Work, and Module 5: Closing Questions.	25	1	50/60	21
O&G Extraction Workers who drive at work.	Tablet Version Module 4: Motor Vehicle	168	1	10/60	28
O&G Extraction Workers who drive at work.	Hardcopy Version Module 4: Motor Vehicle	19	1	20/60	6
Total					236

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–16894 Filed 7–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0978]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Emerging Infections Program—Revision—(OMB Control No. 0920–0978, Expires 8/31/2016), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Emerging Infections Programs (EIPs) are population-based centers of excellence established through a network of state health departments collaborating with academic institutions; local health departments; public health and clinical laboratories; infection control professionals; and healthcare providers. EIPs assist in local, state, and national efforts to prevent, control, and monitor the public health impact of infectious diseases. Various parts of the EIP have received separate Office of Management and Budget (OMB) clearances (Active Bacterial Core Surveillance [ABCs]—OMB Control Number 0920–0802 and All Age Influenza Hospitalization Surveillance—OMB Control Number 0920–0852).

In this revision package we wish to seek OMB clearance to add Healthcare Associated Infections—Community Interface (HAIC): active population-based surveillance for healthcare associated pathogens and infections (including *Clostridium difficile* infection). There are no other changes included in this revision request; therefore, no changes are being made to

the ABC, FoodNet, and Influenza portions of the EIP.

Activities of the EIPs fall into the following general categories: (1) Active surveillance; (2) applied public health epidemiologic and laboratory activities; (3) implementation and evaluation of pilot prevention/intervention projects; and (4) flexible response to public health emergencies.

Activities of the EIPs are designed to: (1) Address issues that the EIP network is particularly suited to investigate; (2) maintain sufficient flexibility for emergency response and new problems as they arise; (3) develop and evaluate public health interventions to inform public health policy and treatment guidelines; (4) incorporate training as a key function; and (5) prioritize projects that lead directly to the prevention of disease. Proposed respondents will include state health departments who may collaborate with one or more of the following: academic institutions, local health departments, public health and clinical laboratories, infection control professionals, and healthcare providers. Frequency of reporting will be determined as cases arise.

The addition of HAIC to the EIP increases the total estimated burden by 10,300 hours to 22, 755 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
State Health Department	ABCs Case Report Form	10	809	20/60
	Invasive Methicillin-resistant *Staphylococcus aureus* ABCs Case Report Form.	10	609	20/60
	ABCs Invasive Pneumococcal Disease in Children Case Report Form.	10	22	10/60
	ABCs Non-Bacteremic Pneumococcal Disease Case Report Form.	10	100	10/60
	Neonatal Infection Expanded Tracking Form	10	37	20/60
	ABCs Legionellosis Case Report Form	10	100	20/60
	Campylobacter	10	637	20/60
	Cryptosporidium	10	130	10/60
	Cyclospora	10	3	10/60
	Listeria monocytogenes	10	13	20/60
	Salmonella	10	827	20/60
	Shiga toxin producing E. coli	10	90	20/60
	Shigella	10	178	10/60
	Vibrio	10	20	10/60
	Yersinia	10	16	10/60
	Hemolytic Uremic Syndrome	10	10	1
	Influenza Hospitalization Surveillance Project Case Report Form.	10	400	15/60
	Influenza Hospitalization Surveillance Project Vaccination Telephone Survey.	10	100	5/60
	Influenza Hospitalization Surveillance Project Vaccination Telephone Survey Consent Form.	10	100	5/60
EIP site	CDI Case Report Form	10	1650	20/60
	CDI Treatment Form	10	1650	10/60
	Resistant Gram-Negative Bacilli Case Report Form	10	500	20/60
Person in the community infected with *C. difficile* (CDI Cases).	Screening Form	600	1	5/60
	Telephone interview	500	1	40/60
Total				

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–16893 Filed 7–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–0949; Docket No. CDC–2015–0053]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the proposed extension of the information collection entitled *Evaluating the Effectiveness of Occupational Safety and Health Program Elements in the Wholesale Retail Trade Sector*. The National

Institute for Occupational Safety and Health seeks to continue its scientific intervention effectiveness research to support the evidenced based prevention of occupational injuries and illnesses in the wholesale/retail sector.

DATES: Written comments must be received on or before September 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0053 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Evaluating the Effectiveness of Occupational Safety and Health Program Elements in the Wholesale Retail Trade Sector OMB No. 0920–0949, expires 10/31/2015)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. Under Public Law 91–596, sections 20 and 22 (Section 20–22, Occupational Safety and Health Act of 1970), NIOSH has the responsibility to conduct research to advance the health and safety of workers. In this capacity, NIOSH proposes to conduct a study to assess the effectiveness of occupational safety and health (OSH) program elements in the wholesale/retail trade (WRT) sector. An extension is being requested in order to allow for additional time to complete the study. Data has already been collected for the first year of the study. Additional time is being requested in order to collect the remaining data for the second and third year.

Liberty Mutual has estimated direct workers compensation costs to industry in the United States in 2009 to be $50 billion. The WRT industry sector employs over 21 million workers or 19% of the workforce in private industry. In 2007, the majority of non-fatal injuries and illnesses involving days away from work in the WRT sector involved musculoskeletal disorders (MSDs, 29%) or slip/trip/falls (STFs, 22%). For this reason, major strategic NIOSH goals in the WRT sector are to reduce MSDs, STFs and other injuries/illnesses in part by assessing the effectiveness of occupational safety and health (OSH) programs designed to prevent these outcomes. There is some evidence that OSH prevention programs built on key elements (management leadership, employee participation, hazard identification and control, medical management, training, and program evaluation) reduce losses. However, little evidence exists on the relative effectiveness of program elements compared to each other. There is a need for research to develop reliable OSH program metrics and determine which elements have the greatest impact on injuries, illnesses and work disability. A renewed partnership between NIOSH and the Ohio Bureau of Workers Compensation (OBWC) a timely opportunity to conduct such research in a relevant and efficient manner.

A collaborative study involving NIOSH and the OBWC will examine the association between survey-assessed OSH program elements (organizational policies, procedures, practices) and workers compensation (WC) injury/illness outcomes in a stratified sample of OBWC-insured wholesale/retail trade (WRT) firms. Crucial OSH program elements with particularly high impact on WC losses will be identified in this study and disseminated to the WRT sector. This study will provide important information that is not currently available elsewhere on the effectiveness of OSH programs for the WRT sector. This project fits the mission of CDC–NIOSH to conduct scientific intervention effectiveness research to support the evidenced based prevention of occupational injuries and illnesses.

For this study, the target population includes United States WRT firms (North American Industry Classification System codes 42, 44, 45, 45). The sampling frame includes OBWC-insured WRT firms in Ohio. The study sample includes OBWC-insured WRT firms who volunteer to participate in the OBWC–NIOSH research project.

The proposed research involves a firm-level survey of a series of organizational metrics considered to be

potential predictors of injury and illness WC claim rates and duration in a stratified sample of OBWC-insured WRT firms in Ohio. There are expected to be up to 4,404 participants per year; surveys will administered twice to the same firms in successive years (*e.g.* from January–December 2014 and again from January–December 2015).

An individual responsible for the OSH program at each firm will be asked to complete survey that include a background section related to respondent and company demographics and a main section where individuals will be asked to evaluate organizational metrics related to their firm's OSH program. The firm-level survey data will be linked to five years of retrospective injury and illness WC claims data and two years of prospective injury and illness WC claims data from OBWC to determine which organizational metrics are related to firm-level injury and illness WC claim rates. A nested study will ask multiple respondents at a subset of 60 firms to participate by completing surveys. A five-minute interview will be conducted with a 10% sample of non-responders (up to 792 individuals).

In order to maximize efficiency and reduce burden, a web-based survey is proposed for the majority (95%) of survey data collection. Collected information will be used to determine whether a significant relationship exists between self-reported firm OSH elements and firm WC outcomes while controlling for covariates. Once the study is completed, benchmarking reports about OSH elements that have the highest impact on WC losses in the WRT sector will be made available through the NIOSH–OBWC internet sites and peer-reviewed publications.

In summary, this study will determine the effectiveness of OSH program elements in the WRT sector and enable evidence-based prevention practices to be shared with the greatest audience possible. NIOSH expects to complete data collection in 2015. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Safety and Health Managers in Wholesale/Retail Trade (WRT) Firms in Ohio.	Occupational Safety and Health Program Survey.	4,404	1	20/60	1,468
	Informed Consent Form	4,404	1	2/60	147
	Non Responder Interview	792	1	5/60	66
Total Hours					1,681

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–16895 Filed 7–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Determining Mental Health Professional Shortage Areas of Greatest Need; Correction

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; correction.

SUMMARY: In accordance with the requirements of section 333A(b)(1) of the Public Health Service (PHS) Act, as amended by the Health Care Safety Net Amendments of 2002, 42 U.S.C. 254f–1(b)(1), the Secretary of HHS shall establish the criteria which she will use to make determinations under section 333A(a)(1)(A) of the Health Professional Shortage Areas (HPSAs) with the greatest shortages. The Health Resources and Services Administration published a notice in the **Federal Register**, FR 2015–00398 (January 14, 2015), which sets forth revised criteria for determining mental health HPSAs with the greatest shortage.

FOR FURTHER INFORMATION CONTACT: Kae Brickerd, Chief, Shortage Designation Branch, Bureau of Health Workforce, Division of Policy and Shortage Designation, Health Resources and Services Administration, 11W14 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 945–0828, *kbrickerd@hrsa.gov.*

Correction:

In the **Federal Register**, FR 2015–00398 (January 14, 2015), please make the following corrections:

In the section For Geographic High Need and Population HPSAs, the table for Core Mental Health (Geographic High Need and Population), should read as follows below.

CORE MENTAL HEALTH (GEOGRAPHIC HIGH NEED AND POPULATION)

Ratio	Score
≥6K and <7.5K:1	1
≥7.5K and <9K:1	2
≥9Kand <12K:1	3
≥12K and <15K:1	4
≥15K and <18K:1	5
≥18K and <24K:1	6

CORE MENTAL HEALTH (GEOGRAPHIC HIGH NEED AND POPULATION)—Continued

Ratio	Score
≥24K:1	7

Dated: July 1, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–16964 Filed 7–9–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–0281–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection

Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for a revision to the use of the approved information collection assigned OMB control number 0990–0281, which expires on November 30, 2015. Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before September 8, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling 202–690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or 202–690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990–0281–60D or reference.

Information Collection Request Title: Prevention Communication Formative Research—Revision—OMB No. 0990–0281—Office of Disease Prevention and Health Promotion.

Abstract: The Office of Disease Prevention and Health Promotion's (ODPHP) focus includes developing and disseminating prevention information to the public. ODPHP faces increasingly urgent interest in finding effective ways to communicate health information to America's diverse population. As a federal government agency, ODPHP strives to be responsive to the needs of America's diverse audiences while simultaneously serving all Americans across a range of channels, from print through new communication technologies. To carry out its prevention information efforts, ODPHP is committed to conducting formative and usability research to provide guidance on the development and implementation of its disease prevention and health promotion communication and education efforts.

The information collected will be used by ODPHP to improve its communication, products, and services that support key office activities including: Healthy People, Dietary Guidelines for Americans, Physical Activity Guidelines for Americans, healthfinder.gov, and increasing health care quality and patient safety. ODPHP communicates through its Web sites (*www.healthfinder.gov, www.HealthyPeople.gov, www.health.gov*) and through other channels including social media, print materials, interactive training modules, and reports.

The primary methods of data collection will be qualitative and may include in-depth interviews, focus groups, web-based surveys, card sorting, and various forms of usability testing of materials and interactive tools to assess the public's understanding of disease prevention and health promotion content, responses to prototype materials, and barriers to effective use.

The research methods outlined in this supporting statement have five major purposes:

1. To obtain useful target audience information for the formation of messages and materials
2. To further explore messages and materials in contexts that would be most beneficial for target audiences
3. To identify and verify audience segmentation strategies for providing disease prevention and health promotion information
4. To inform the development and refinement of user-friendly Web sites and other interactive tools
5. To identify user challenges and obstacles to accessing health information to guide Web site, material, and interactive tool development and refinement

The program is requesting a 3-year clearance.

Likely Respondents: Respondents are likely to be either consumers or health professionals.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Data collection task	Instrument/form name	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total response burden (in hours)
In-depth interviews	Screener	135	1	10/60	22.5
	Interview	45	1	1	45
Focus groups	Screener	240	1	10/60	40
	Focus Group	80	1	1.5	120
Web-based surveys	Screener	6000	1	5/60	500
	Survey	2000	1	15/60	500
Card sorting	Screener	180	1	10/60	180
	Card Sort	60	1	1	60
Usability and prototype testing of materials (print and Web).	Screener	360	1	10/60	60
	Usability Test	120	1	1	120
Total					1,647.50

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2015–16870 Filed 7–9–15; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–XXXX]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the

proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office at (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Examining Consumer and Producer Responses to Restaurant Menu Labeling Requirements: Survey Protocol—OMB No. 0990–XXXX—New—Office of the Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting approval on a new information collection request from the Office of Management and Budget (OMB) for purposes of conducting a study about calorie labeling on restaurant menus.

Previous research demonstrates that consumers respond both to information about their options and the way those options are presented. Accordingly, restaurants can utilize presentation effects on menus and menu boards to influence consumer perceptions and choices. By analyzing the consumer response to menu options and design, this study will offer a wide-ranging view of the consumer and producer response to menu labeling requirements.

ASPE is requesting comment on the burden for this study aimed at understanding the impact that the new FDA rule on calorie labeling will have on consumer choice when ordering from a restaurant. The goal of developing this activity is to examine consumer and producer responses to restaurant menu labeling requirements recently enacted by the FDA. The participants will include members of the RAND American Life Panel (ALP) which includes participants from several sources, including the University of Michigan Monthly Survey, the National Survey Project cohort, and several specific recruitment methods to add specific populations (*e.g.* active recruitment for vulnerable populations).

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
ALP Panel Member	2,100	1	20/60	700
Totals				700

Darius Taylor,

Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2015–16871 Filed 7–9–15; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OMHA–1501–N]

Medicare Program; Administrative Law Judge Hearing Program for Medicare Claim and Entitlement Appeals; Quarterly Listing of Program Issuances—March Through June 2015

AGENCY: Office of Medicare Hearings and Appeals (OMHA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the implementation of the OMHA Case Processing Manual (OCPM). This manual standardizes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations and OMHA directives, and gives OMHA staff direction for processing appeals at the OMHA level of adjudication.

FOR FURTHER INFORMATION CONTACT: Jason Green, by telephone at (703) 235–0124, or by email at *jason.green@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Medicare Hearings and Appeals (OMHA), a staff division within the Office of the Secretary of the U.S. Department of Health and Human Services (HHS), administers the nationwide Administrative Law Judge hearing program for Medicare claim, organization and coverage determination, and entitlement appeals under sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D–4(h) of the Social Security Act (the Act). OMHA ensures that Medicare beneficiaries and the providers and suppliers that furnish items or services to Medicare beneficiaries, as well as Medicare Advantage Organizations (MAOs) and Medicaid State Agencies, have a fair and impartial forum to address disagreements with Medicare coverage and payment determinations made by Medicare contractors, MAOs, or Part D Plan Sponsors (PDPSs), and determinations related to Medicare eligibility and entitlement, Part B late enrollment penalty, and income-related monthly adjustment amounts (IRMAA) made by the Social Security Administration (SSA).

The Medicare claim, organization and coverage determination appeals processes consist of four levels of administrative review, and a fifth level of review with the Federal district courts after administrative remedies under HHS regulations have been exhausted. The first two levels of review are administered by the Centers for Medicare & Medicaid Services (CMS) and conducted by Medicare contractors for claim appeals, by MAOs and an independent review entity for Part C organization determination appeals, or by PDPSs and an independent review entity for Part D coverage determination appeals. The third level of review is administered by OMHA and conducted by Administrative Law Judges. The fourth level of review is administered by the HHS Departmental Appeals Board (DAB) and conducted by the Medicare Appeals Council. In addition, OMHA and the DAB administer the second and third levels of appeal, respectively, for Medicare eligibility, entitlement, Part B late enrollment penalty, and IRMAA reconsiderations made by SSA; a fourth level of review with the Federal district courts is available after administrative

remedies within SSA and HHS have been exhausted.

Sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D–4(h) of the Act are implemented through the regulations at 42 CFR part 405 subparts I and J; part 417, subpart Q; part 422, subpart M; part 423, subparts M and U; and part 478, subpart B. As noted above, OMHA administers the nationwide Administrative Law Judge hearing program in accordance with these statutes and applicable regulations. As part of that effort, OMHA is establishing a manual, the OMHA Case Processing Manual (OCPM). Through the OCPM, the OMHA Chief Administrative Law Judge establishes the day-to-day procedures for carrying out adjudicative functions, in accordance with applicable statutes, regulations and OMHA directives. The OCPM provides direction for processing appeals at the OMHA level of adjudication for Medicare Part A and B claims; Part C organization determinations; Part D coverage determinations; and SSA eligibility and entitlement, Part B late enrollment penalty, and IRMAA determinations.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice announces the publication of the initial OCPM chapters. A hyperlink to the available chapters on the OMHA Web site is provided below. The OMHA Web site contains the most current, up-to-date chapters and revisions to chapters, and will be available earlier than we publish our quarterly notice. We believe the OMHA Web site list provides more timely access to the current OCPM chapters for those involved in the Medicare claim, organization and coverage determination and entitlement appeals processes. We also believe the Web site offers the public a more convenient tool for real time access to current OCPM provisions. In addition, OMHA has a listserv to which the public can subscribe to receive immediate notification of any updates to the OMHA Web site. This listserv avoids the need to check the OMHA Web site, as update notifications are sent to subscribers as they occur. If accessing the OMHA Web site proves to be difficult, the contact person listed above can provide the information.

III. How To Use the Notice

This notice lists the OCPM chapters and subjects published during the quarter covered by the notice so the reader may determine whether any are of particular interest. We expect this notice to be used in concert with future published notices. The OCPM can be accessed at *http://www.hhs.gov/omha/OMHA_Case_Processing_Manual/index.html.*

IV. OCPM Releases for March Through June 2015

The OCPM is used by OMHA adjudicators and staff to administer the OMHA program. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, and OMHA directives.

The following is a list and description of new OCPM provisions and the subject matter. For future quarterly notices, we will list only the specific updates to the list of manual provisions that have occurred in the covered 3-month period. This information is available on our Web site at *http://www.hhs.gov/omha/OMHA_Case_Processing_Manual/index.html.*

OCPM Division I: General Matters

Chapter 1, Manual Overview, Definitions, Governance. This new chapter provides a general overview of the OCPM, including the purpose of the manual, how it is organized and used, a list of acronyms and abbreviations used in the manual, and how manual provisions will be updated.

OCPM Division II: Part A/B Claim Determinations

Chapter 3, Procedural Screening. This new chapter describes the review process for new requests for hearing on Medicare Part A and Part B reconsiderations issued by Qualified Independent Contractors (QICs) and Quality Improvement Organizations (QIOs), and escalations of requests for reconsideration by a QIC. The review process helps ensure requests are complete and jurisdictional requirements are met.

OCPM Division III: Part C Organization Determinations

Chapter 3, Procedural Screening. This new chapter describes the review process for new requests for hearing on Medicare Part C reconsiderations issued by an Independent Review Entity and QIOs. The review process helps ensure requests are complete and jurisdictional requirements are met.

OCPM Division IV: Part D Coverage Determinations

Chapter 3, Procedural Screening. This new chapter describes the review process for new requests for hearing on Medicare Part D reconsiderations issued by an Independent Review Entity. The review process helps ensure requests are complete and jurisdictional requirements are met.

OCPM Division V: SSA Determinations

Chapter 3, Procedural Screening. This new chapter describes the review process for new requests for hearing on reconsiderations of Medicare eligibility and entitlement, Part B late enrollment penalties, and Part B and Part D IRMAAs issued by SSA. The review process helps ensure requests are complete and jurisdictional requirements are met.

Dated: June 30, 2015.

Nancy J. Griswold,

Chief Administrative Law Judge, Office of Medicare Hearings and Appeals.

[FR Doc. 2015–16824 Filed 7–9–15; 8:45 am]

BILLING CODE 4152–01–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; Member Conflict: Topics in Steroids Regulation and Disease.

Date: July 9, 2015.

Time: 1:30 p.m. to 2:30 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: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, Genes, Genomes, and Genetics IRG, Center for Scientific Review, National Institutes of Health, 6701

Rockledge Drive, Room 2200, MSC 7890, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: July 2, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16841 Filed 7–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases: 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 Allergy and Infectious Diseases Special Emphasis Panel; Opportunities for Collaborative Research at the NIH Clinical Center (U01).

Date: August 14, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Conference Room 3F100, 5601 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, NIAID/NIH/DHHS, Scientific Review Program, 5601 Fishers Lane, Room 3G13 Rockville, MD 20852, 240–669–5047, *bgustafson@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 7, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16937 Filed 7–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Diabetes Ancillary Studies.

Date: July 29, 2015.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 6, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16840 Filed 7–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, section 102–3.65(a), notice is hereby given that the Charter for the Recombinant DNA Advisory Committee, National Institutes of Health, was renewed for an additional two-year period on June 30, 2015.

It is determined that the Recombinant DNA Advisory Committee, National Institutes of Health, is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875). Telephone (301) 496–2123, or *spaethj@od.nih.gov.*

Dated: July 6, 2015.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16839 Filed 7–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office

of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

Method of Treating Fumarate Hydratase-Deficient Kidney Cancer

Description of Technology: Patients having germline fumarate hydratase (''FH'') gene mutation are predisposed to develop aggressive kidney cancer with few treatment options and poor therapeutic outcomes. NCI scientists have identified a tyrosine kinase inhibitor vandetanib that is highly cytotoxic to kidney cancer cells both in vitro and in vivo. C-Abl activity is upregulated in FH-deficient kidney tumors and vandetanib efficacy is a direct consequence of c-Abl inhibition. It was also found that combining metformin enhanced the cytotoxic effect of vandetanib by inhibiting NRF2 transcriptional activity in a SIRT1-dependent manner. Thus dual inhibition of c-Abl and NRF2 activity with vandetanib and metformin is a novel therapeutic approach to target glycolytically dependent, oxidatively stressed tumors.

Potential Commercial Applications: Therapies for treating FH-deficient kidney cancer and glycolytically dependent, oxidatively stressed tumors.

Competitive Advantages:

- Specificity of mode of action may reduce potential side-effects.
- Novel mode of action may increase market competition.
- No effective therapy is currently available for patients with advanced FH-deficient kidney cancer.

Development Stage:

- In vitro data available.
- In vivo data available (animal).

Inventors: William Marston Linehan (NCI), *et al.*

Publication: Sourbier C, et al. Targeting ABL1-mediated oxidative stress adaptation in fumarate hydratase-deficient cancer. Cancer Cell. 2014 Dec 8;26(6):840–50. [PMID 25490448]

Intellectual Property: HHS Reference No. E–104–2014/0—

- US Patent Application No. 62/003,319 filed May 27, 2014.
- PCT/US2015/03267 filed May 27, 2015.

Licensing Contact: Whitney Hastings, Ph.D.; 301–451–7337; *hastingw@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize the combination of Vandetanib and Metformin to treat fumarate hydratase-deficient cancer. For collaboration opportunities, please contact Michael Pollack, Ph.D. at *pollackm@mail.nih.gov.*

Therapeutic and Prophylactic Anti-Influenza Virus Neuraminidase 1 (N1) Antibody (CD6) With a Novel Epitope That Spans Neuramindase (NA) Dimers

Description of Technology: Influenza virus neuramindase (NA) protein is a surface protein that plays an essential role in virus replication. Drugs and antibodies that block NA function can reduce both the symptoms and the length of illness; however, variants of influenza virus are resistant to NA inhibitors. The neuramindase 1 (N1) subtype of NA is important because it is found in the two pandemic H1N1 influenza virus strains (1918 Spanish flu and 2009 swine flu) and the H5N1 avian influenza virus. Anti-neuramindase antibody CD6 is a novel antibody that spans a conserved 30 amino acid epitope across the lateral face of a neuramindase (NA) dimer.

The subject technology may offer an alternative to therapeutic NA inhibitors currently available. CD6 is a potent monoclonal antibody against N1 subtypes of NA that inhibits the enzymatic activity of the NA protein, including NA variants resistant to NA inhibitors. In a murine model of infection, a single dose of antibody was protective against lethal challenge with H1N1 influenza virus. The CD6 antibody can potentially be used in combination with other antibodies in an antibody ''cocktail'' or in conjunction with other therapeutic agents. Additionally, this unique anti-NA antibody may be useful in combination with known neutralizing anti-hemagglutinin (HA) antibodies.

Potential Commercial Applications:

- Prophylactic and therapeutic against influenza virus infections.
- Diagnostic tests for influenza virus infections.
- Reagent to measure the potency of H1N1 NA in influenza virus vaccines.

Competitive Advantages:

- Monoclonal antibody demonstrated to be effective against circulating H1N1 influenza viruses.
- Monoclonal antibody binds a novel, conserved epitope spanning NA dimers.
- Monoclonal antibody is well-suited for an antibody cocktail that includes anti-HA antibodies.

Development Stage:

- Early-stage.
- In vitro data available.
- In vivo data available (animal).

Inventors: Hongquan Wan (FDA), Maryna Eichelberger (FDA), Hua Yang (CDC), James Stevens (CDC), David Shore (CDC), Rebecca Garten (CDC).

Publication: Wan H, et al. Structural characterization of a protective epitope spanning A(H1N1)pdm09 influenza virus neuraminidase monomers. Nat Commun. 2015 Feb 10;6:6114. [PMID 25668439].

Intellectual Property: HHS Reference No. E–005–2015/0—US Provisional Patent Application No. 62/088,388 filed December 5, 2014.

Licensing Contact: Steven M. Ferguson; 301–435–5561; *fergusos@mail.nih.gov.*

Collaborative Research Opportunity: The U.S. Food and Drug Administration is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact Bill Ronnenberg at *william.ronnenberg@fda.hhs.gov* or 240–402–4561.

Confocal Laser Device and Method for Evaluating the Optical Properties of Intraocular Lenses (IOLs) Including Toric IOLs

Description of Technology: This innovative technology includes a confocal laser device and methodologies to evaluate the optical properties of spherical and toric Intraocular Lenses (IOLs). Spherical and toric IOLs are implanted in the eye to treat cataracts and other conditions in order to correct vision after surgery. Toric IOLs, in addition to correcting spherical aberrations of the eye, correct asymmetrical aberrations of the eye such as astigmatism.

This technology includes the confocal laser device and methodology for assessing spherical IOLs with an integrated component for assessing toric IOLs. The IOL market is growing steadily and IOL technology is continually improving to correct complex vision errors. It is estimated that 3 million IOLs are implanted annually in the U.S. and 19.7 million worldwide. This device can be used to precisely assess IOL key properties such as dioptric power, cylinder power, optical plane orthogonality and IOL markings used for IOL positioning in the eye during surgery. Thus, this new technology provides a simple, noninvasive, accurate and objective methodology to evaluate IOL characteristics with higher accuracy and repeatability in wider power ranges compared to the conventional test

methods. These IOL test capabilities can improve the safety and efficacy of IOL implants and ultimately lead to better cataract surgery success rates.

Potential Commercial Applications:

- Development and implementation of novel test devices and independent methodologies for precise evaluation and validation of critical IOL characteristics.
- Development and evaluation of novel IOL designs.

Competitive Advantages:

- Higher accuracy.
- Higher repeatability.
- Larger range of positive and negative IOL dioptric power measurement.

Development Stage:

- In vitro data available.
- In situ data available (on-site).
- Prototype.

Inventors: Ilko Ilev, Bennett Walker, Robert James, and Don Calogero (all of the FDA).

Publications:

1. Walker BN, et al. Assessing the effect of laser beam width on quantitative evaluation of optical properties of intraocular lens implants. J Biomed Opt. 2014 May;19(5):055004. [PMID 24817618]

2. Walker BN, et al. Impact of environmental temperature on optical power properties of intraocular lenses. Appl Opt. 2014 Jan 20;53(3):453–7. [PMID 24514132]

3. Hoffer KJ, et al. Testing the dioptric power accuracy of exact-power-labeled intraocular lenses. J Cataract Refract Surg. 2009 Nov;35(11):1995–9. [PMID 19878834]

4. Ilev IK. A simple confocal fibre-optic laser method for intraocular lens power measurement. Eye (Lond). 2007 Jun;21(6):819–23. [PMID 16710435]

Intellectual Property:

- HHS Reference No. E–047–2015/0—US Provisional Application No. 62/108,795 filed January 28, 2015.
- HHS Reference No. E–038–2005/0—US Patent No. 8,456,738 issued June 4, 2013; EP Application 06750250.0.
- HHS Reference No. E–039–2005/0—US Patent No. 7,719,668 issued May 18, 2010; EP Application 06736741.7.

Licensing Contact: Steven M. Ferguson; 301–435–5561; *fergusos@mail.nih.gov*.

Collaborative Research Opportunity: The Food and Drug Administration is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact Bill Ronnenberg at *william.ronnenberg@fda.hhs.gov* or 240–402–4561.

Dated: July 6, 2015.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2015–16838 Filed 7–9–15; 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: Center for Scientific Review Special Emphasis Panel; RFA–EB–15–003: Pediatric Research using Integrated Sensor Monitoring Systems (PRISMS): Informatics Platform Technologies for Asthma (U54).

Date: July 23, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Peter J Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiovascular Sciences.

Date: July 28–30, 2015.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Implementation Science.

Date: July 31, 2015.

Time: 12:30 p.m. to 4:00 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: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuropharmacology.

Date: August 3, 2015.

Time: 2:00 p.m. to 4:30 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 D Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301–435–1220, *crosland@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: August 4–5, 2015.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–EB–15–002: PRISMS Sensor Development Projects for Pediatric Asthma (U01).

Date: August 6, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pregnancy and Neonatology.

Date: August 6, 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, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@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: July 2, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16842 Filed 7–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) plans to conduct the Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test, a National Customs Automation Program (NCAP) test concerning ACE export manifest capability. The ACE Export Manifest for Air Cargo Test is a voluntary test in which participants agree to submit export manifest data electronically, at least 4 hours prior to loading of the cargo onto the aircraft in preparation for departure from the United States. CBP regulations require carriers to submit a paper manifest for export air shipments generally within 4 days after departure. This notice provides a description of the test, sets forth eligibility requirements for participation, and invites public comment on any aspect of the test.

DATES: The test will begin no earlier than August 10, 2015 and will run for approximately two years. CBP is accepting applications for participation in this planned test until CBP has received applications from nine parties that meet all test participant requirements. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

ADDRESSES: Applications to participate in the ACE Export Manifest for Air Cargo Test must be submitted via email to CBP Export Manifest at *cbpexportmanifest@cbp.dhs.gov.* In the subject line of the email, please use ''ACE Export Manifest for Air Cargo Test Application''. Written comments concerning program, policy, and technical issues may also be submitted via email to CBP Export Manifest at *cbpexportmanifest@cbp.dhs.gov.* In the subject line of the email, please use ''Comment on ACE Export Manifest for Air Cargo Test''.

FOR FURTHER INFORMATION CONTACT: Robert Rawls, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at *Robert.Rawls@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, Dec. 8, 1993) (Customs Modernization Act) (19 U.S.C. 1411–14). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace a specific legacy ACS or paper function. Each release begins with a test and ends with mandatory use of the new ACE feature, thus retiring the legacy ACS or paper function. Each release builds on previous releases and sets the foundation for subsequent releases.

Authorization for the Test

The Customs Modernization Act provides the Commissioner of CBP with the authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The test described in this notice is authorized pursuant to the Customs Modernization Act and section 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. As provided in 19 CFR 101.9(b), for purposes of conducting an NCAP test, the Commissioner of CBP may impose requirements different from those specified in the CBP regulations.

International Trade Data System (ITDS)

This test is also in furtherance of the International Trade Data System (ITDS) key initiatives, set forth in section 405 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 120 Stat. 1884, Oct. 13, 2006) (SAFE Port Act) (19 U.S.C. 1411(d)) and Executive Order 13659 of February 19, 2014, *Streamlining the Export/Import Process for America's Businesses.* The purpose of ITDS, as stated in section 405 of the SAFE Port Act, is to eliminate redundant information requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies. CBP is developing ACE as the ''single window'' for the trade community to comply with the ITDS requirement established by the SAFE Port Act.

Executive Order 13659 requires that by December 2016, ACE, as the ITDS single window, have the operational capabilities to serve as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export, and to transition from paper-based requirements and procedures to faster and more cost-effective electronic submissions to, and communications with, U.S. government agencies.

Current Air Cargo Export Information Requirements

Under 19 CFR 122.72, 19 CFR 122.73, 19 CFR 122.74, 19 CFR 122.75, and 19 CFR 192.14, certain information must be submitted to CBP for aircraft with export cargo leaving the United States for any foreign area.[1] In most cases, the

[1] Section 122.72 requires the filing of a general declaration, an air cargo manifest, and any required Shipper's Export Declarations. Shipper's Export Declarations were the Department of Commerce paper forms used by the Bureau of the Census under the Foreign Trade Statistics Regulations to collect information from an entity exporting from the United States. These forms were used for compiling the official U.S. export statistics for the United States and for export control purposes. The Shipper's Export Declarations became obsolete on October 1, 2008, with the implementation of the Foreign Trade Regulations (FTR) and have been superseded by the Electronic Export Information (EEI) filed in AES or through the AESDirect. See 15

aircraft commander or agent must file a general declaration on CBP Form 7507 pertaining to the outbound flight. Also, the aircraft commander or agent must file the air cargo manifest, CBP Form 7509, with CBP at each port where export cargo is loaded on the aircraft. Under 19 CFR 122.74, the airline must file the complete air cargo manifest generally within 4 days after departure of the aircraft. Finally, the U.S. Principal Party in Interest (USPPI) must file any required Electronic Export Information (EEI) for the cargo on the aircraft.[2] More details regarding the manifest requirements, the subject of this test, are provided in the next section.

Current Air Cargo Manifest Requirements

As indicated in the previous section, the aircraft commander or agent must file copies of the air cargo manifest on CBP Form 7509. CBP Form 7509 consists of the following data elements:

(1) Owner/Operator
(2) Marks of nationality and registration
(3) Flight number
(4) Port of lading
(5) Port of unlading
(6) Date
(7) Consolidator (conditional)
(8) De-consolidator (conditional)
(9) Air waybill type (Master, House, or Sub)
(10) Air waybill number
(11) Number of pieces
(12) Weight (kg./lb.)
(13) Number of house air waybills
(14) Shipper name and address
(15) Consignee name and address
(16) Nature of goods
(17) Internal Transaction Number (ITN) or AES Exemption Statement[3]

The air cargo manifest may be filed in complete form or incomplete form (pro forma). Under 19 CFR 122.74, the complete manifest must be filed with CBP before the aircraft will be cleared to depart during any time covered by a proclamation of the President that a state of war exists between foreign nations, or if the aircraft is departing on a flight from the United States directly or indirectly to a foreign country listed in 19 CFR 4.75. Otherwise, for shipments to a foreign country, an incomplete manifest may be filed with CBP at the departure airport when accompanied by the proper bond. For shipments on direct flights to Puerto Rico, an incomplete manifest may be filed with CBP upon arrival in Puerto Rico. If the complete manifest will not be filed within one business day of arrival in Puerto Rico, the proper bond must be filed at that time.

Under the bond accompanying the incomplete manifest, the complete manifest must be filed with CBP by the airline within the appropriate time period. For shipments to foreign countries, the complete manifest must generally be filed no later than 4 business days post-departure. For shipments between the United States and Puerto Rico, the complete manifest must be filed no later than 7 business days after arrival into or departure from Puerto Rico. For shipments between the United States or Puerto Rico and U.S. possessions, the complete manifest must be filed no later than 7 business days after departure.

Trade Act and the Automated Export System (AES)

Section 343(a) of the Trade Act of 2002, as amended (Trade Act) (19 U.S.C. 2071 note), requires CBP to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail, or truck). The required cargo information is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP. Section 192.14 of title 19 of the Code of Federal Regulations (19 CFR 192.14) implements the requirements of the Trade Act with regard to cargo departing the United States.

While the air cargo manifest described above must be submitted by the aircraft commander or agent, that is, by the air carrier, any required EEI must be filed by the USPPI under 19 CFR 192.14. Using a CBP-approved EDI system, the USPPI or its authorized agent must transmit and verify system acceptance of this EEI, generally no later than 2 hours prior to the scheduled departure time of the aircraft from the last U.S. port. The air carrier may not load cargo without first receiving from the USPPI or its authorized agent either the related EEI filing citation, covering all cargo for which the EEI is required, or exemption legends, covering cargo for which EEI need not be filed. The outbound air carrier then must annotate the air cargo manifest, waybill, or other export documentation with the applicable AES proof of filing, post departure, downtime, exclusion or exemption citations, conforming to the approved data formats found in the Bureau of the Census Foreign Trade Regulations (FTR) (15 CFR part 30).

Description of the ACE Export Manifest for Air Cargo Test

Purpose

The ACE Export Manifest for Air Cargo Test will test the functionality regarding the filing of export manifest data for air cargo electronically to ACE in furtherance of the ITDS initiatives described above. CBP has re-engineered AES to move it to an ACE system platform. The re-engineering and incorporation of AES into ACE will result in the creation of a single automated export processing platform for certain export manifest, commodity, licensing, export control, and export targeting transactions. This will reduce costs for CBP, partner government agencies, and the trade community and improve facilitation of export shipments through the supply chain.

The ACE Export Manifest for Air Cargo Test will also test the feasibility of requiring the manifest information to be filed electronically in ACE within a specified time before the cargo is loaded on the aircraft. (Under the current regulatory requirements, the complete manifest is required to be submitted by the airline on paper CBP Form 7509 generally after the departure of the aircraft). As described in the paragraph below, in the test, participants will submit export manifest data electronically to ACE at least 4 hours prior to loading of the cargo. This will enable CBP to easily link the EEI submitted by the USPPI with the export manifest information earlier in the process. This capability will better enable CBP to assess risk and effectively target and inspect shipments prior to the loading of cargo to ensure compliance with all U.S. export laws.

Procedures

Participants in the ACE Export Manifest for Air Cargo Test agree to provide export manifest data electronically at least 4 hours prior to loading of the cargo onto the aircraft in preparation for departure from the United States. If the air carrier files this ACE Export Manifest data, the electronic filing is in lieu of the paper

CFR 30.1. See also 19 CFR 192.14, regarding required EEI.

[2] The USPPI is defined in the FTR as the person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the export transaction. Generally, that person or entity is the U.S. seller, manufacturer, or order party, or the foreign entity while in the United States when purchasing or obtaining the goods for export. 15 CFR 30.1.

[3] Though not a data element on CBP Form 7509 itself, the carrier must include the ITN or AES Exemption Statement on the outward manifest pursuant to 19 CFR 192.14(c)(3).

filing of CBP Form 7509. If a freight forwarder files the ACE Export Manifest data, the carrier is still required to file the CBP Form 7509 (or ACE Export Manifest data, if the air carrier is also a test participant).

The ACE Export Manifest data submission will be used to target high-risk air cargo. The data should be available to test participants early in the planning stages of an export air cargo transaction. It is anticipated that data provided 4 hours prior to loading will permit adequate time for proper risk assessment and identification of shipments to be inspected early enough in the supply chain to enhance security while minimizing disruption to the flow of goods.

Any air cargo identified as potentially high-risk will receive a hold until required additional information related to the shipment is submitted to clarify non-descriptive, inaccurate, or insufficient information, a physical inspection is performed, or some other appropriate action is taken, as specified by CBP. Once the cargo is cleared for loading, a release message will be generated and transmitted to the filer.

Data Elements

The ACE Export Manifest for Air Cargo Test data elements are similar, but not identical to the data elements required on CBP Form 7509. The data elements are mandatory unless otherwise indicated. Data elements that are indicated as ''conditional'' must be transmitted to CBP only if the particular information pertains to the cargo. The ACE Export Manifest for Air Cargo data elements are to be submitted at the lowest bill level. The data elements consist of:

(1) Exporting Carrier (CBP finds this term to be clearer than the term ''Owner/Operator'' used on CBP Form 7509)
(2) Marks of nationality and registration
(3) Flight number
(4) Port of lading
(5) Port of unlading
(6) Scheduled date of departure (CBP finds this term to be clearer than the term ''Date'' used on CBP Form 7509)
(7) Consolidator (conditional)
(8) De-consolidator (conditional)
(9) Air waybill type (Master, House, Simple or Sub)
(10) Air Waybill number
(11) Number of pieces and unit of measure
(12) Weight (kg./lb.)
(13) Number of house air waybills
(14) Shipper name and address
(15) Consignee name and address
(16) Cargo description (CBP finds this term to be clearer than the term ''Nature of goods'' used on CBP Form 7509)
(17) AES Internal Transaction Number (ITN) or AES Exemption Statement/ Exception Classification (per shipment)
(18) Split air waybill indicator (conditional)
(19) Hazmat indicator (Yes/No)
(20) UN Number (conditional) (If the hazmat indicator is yes, the four-digit UN (United Nations) Number assigned to the hazardous material must be provided.)
(21) In-bond number (conditional)
(22) Mode of transportation (Air, containerized or Air, non-containerized)

There are currently no additional data elements identified for other participating U.S. Government Agencies (PGAs) for the ACE Export Manifest for Air Cargo Test. However, CBP may enhance the test in the future with additional data or processing capabilities to assist with facilitation of air shipment movements and to be consistent with Executive Order 13659. Any such enhancement will be announced in the **Federal Register**.

Eligibility Requirements

CBP is limiting this test to nine stakeholders in the air cargo environment. Specifically, CBP is seeking participation from:

- At least three, but no more than six, air carriers currently required to file paper export air cargo manifest CBP Form 7509 under 19 CFR 122.72 and 122.73; and
- At least three, but no more than six, freight forwarders.

There are no restrictions with regard to organization size, location, or commodity type. However, participation is limited to those parties able to electronically transmit export manifest data in the identified acceptable format. Prospective ACE Export Manifest for Air Cargo Test participants must have the technical capability to electronically submit data to CBP and receive response message sets via Cargo-IMP, AIR CAMIR, XML, or Unified XML, and must successfully complete certification testing with their client representative. (Unified XML may not be immediately available at the start of the test. However, parties wishing to utilize Unified XML may be accepted, pending its development and implementation). Once parties have applied to participate, they must complete a test phase to determine if the data transmission is in the required readable format. Applicants will be notified once they have successfully completed testing and are permitted to participate fully in the test. In selecting participants, CBP will take into consideration the order in which the applications are received.

Conditions of Participation

Test participants agree to submit export manifest data electronically to CBP via an approved EDI at least 4 hours prior to the loading of the cargo onto the aircraft in preparation for departure from the United States. In addition, test participants agree to establish operational security protocols that correspond to CBP hold messages that mandate the participant to take responsive action and respond to CBP confirming that the requested action was taken to mitigate any threat identified, respond promptly with complete and accurate information when contacted by CBP with questions regarding the data submitted, and comply with any ''Do Not Load'' instructions.

Finally, test participants agree to participate in any teleconferences or meetings established by CBP, when necessary, to ensure any challenges, or operational or technical issues regarding the test are properly communicated and addressed.

Participation in the ACE Export Manifest for Air Cargo Test does not impose any legally binding obligations on either CBP or the participant, and CBP generally does not intend to enforce or levy punitive measures if test participants are non-compliant with these conditions of participation during the test.

Application Process and Acceptance

Those interested in participating in the ACE Export Manifest for Air Cargo Test should submit an email to CBP Export Manifest at *cbpexportmanifest@cbp.dhs.gov,* stating their interest and their qualifications based on the above eligibility requirements. The email will serve as an electronic signature of intent to participate and must also include a point of contact name and telephone number. Applications will be accepted until CBP has received applications from nine parties that meet all test participant requirements. CBP will notify applicants whether they have been selected to participate in the test. Applicants will also be notified once they have successfully completed testing and are permitted to participate fully in the test.

Test participants will receive technical, operational, and policy guidance through all stages of test participation, from planning to implementation, on the necessary steps

for the transmission of electronic export manifest data.

Costs to ACE Export Manifest for Air Cargo Test Participants

ACE Export Manifest for Air Cargo Test participants are responsible for all costs incurred as a result of their participation in the test and such costs will vary, depending on their pre-existing infrastructures. Costs may be offset by a significant reduction in expenses associated with copying, storing, and courier services for presenting the paper manifest to CBP.

Benefits to ACE Export Manifest for Air Cargo Test Participants

While the benefits to ACE Export Manifest for Air Cargo Test participants will vary, several advantages of joining may include:

- Reduction in costs associated with generating copies, transportation, and storage of paper manifest documentation;
- Increases in security by leveraging CBP threat model and other data to employ a risk-based approach to improve air cargo security and to ensure compliance with U.S. export laws, rules and regulations through targeted screening;
- Gains in efficiencies by automating the identification of high-risk cargo for enhanced screening;
- The ability to provide input into CBP efforts to establish, test, and refine the interface between government and industry communication systems for the implementation of the electronic export manifest; and
- Facilitation of corporate preparedness for future mandatory implementation of electronic export manifest submission requirements.

Waiver of Certain Regulatory Requirements

For purposes of this test, the requirement to file a paper CBP Form 7509, as provided in 19 CFR 122.72–122.75 will be waived for air carrier test participants that submit the ACE Export Manifest for Air Cargo data elements electronically as described above. If a freight forwarder submits the electronic ACE Export Manifest data, the air carrier is still required to file the paper CBP Form 7509 (or the electronic ACE Export Manifest data, if the air carrier is a test participant). The air carrier maintains responsibility for submitting the manifest data to CBP to cover all cargo on the aircraft, even if the freight forwarder has also submitted manifest data. Participation in the test does not alter the participant's obligations to comply with any other applicable statutory and regulatory requirements, including 19 CFR 122.72–122.75, and participants will still be subject to applicable penalties for non-compliance. In addition, submission of data under the pilot does not exempt the participant from any CBP or other U.S. Government agency program requirements or any statutory sanctions in the event that a violation of U.S. export laws or prohibited articles are discovered within a shipment/container presented for export destined from the United States on an aircraft owned and/or operated by the participant.

Duration and Evaluation of the ACE Export Manifest for Air Cargo Test

The test will be activated on a case-by-case basis with each participant and may be limited to a single or small number of ports until any operational, training, or technical issues on either the trade or government side are established and/or resolved. The test will run for approximately two years from August 10, 2015. While the test is ongoing, CBP will evaluate the results and determine whether the test will be extended, expanded to include additional participants, or otherwise modified. CBP will announce any such modifications by notice in the **Federal Register**. When sufficient test analysis and evaluation has been conducted, CBP intends to begin rulemaking to require the submission of electronic export manifest data before the cargo is loaded onto the aircraft for all international shipments destined from the United States. The results of the test will help determine the relevant data elements, the time frame within which data should be submitted to permit CBP to effectively target, identify, and mitigate any risk with the least impact practicable on trade operations, and any other related procedures and policies.

Confidentiality

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. However, participation in this or any ACE test is not confidential and upon a written Freedom of Information Act (FOIA) request, the name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552.

Misconduct Under the Test

If a test participant fails to abide by the rules, procedures, or terms and conditions of this and all other applicable **Federal Register** Notices, fails to exercise reasonable care in the execution of participant obligations, or otherwise fails to comply with all applicable laws and regulations, then the participant may be suspended from participation in this test and/or subjected to penalties, liquidated damages, and/or other administrative or judicial sanction. Additionally, CBP has the right to suspend a test participant based on a determination that an unacceptable compliance risk exists.

If CBP determines that a suspension is warranted, CBP will notify the participant of this decision, the facts or conduct warranting suspension, and the date when the suspension will be effective. In the case of willful misconduct, or where public health interests or safety are concerned, the suspension may be effective immediately. This decision may be appealed in writing to the Assistant Commissioner, Office of Field Operations, within 15 days of notification. The appeal should address the facts or conduct charges contained in the notice and state how the participant has or will achieve compliance. CBP will notify the participant within 30 days of receipt of an appeal whether the appeal is granted. If the participant has already been suspended, CBP will notify the participant when their participation in the test will be reinstated.

Paperwork Reduction Act

As noted above, CBP will be accepting no more than nine participants in the ACE Export Manifest for Air Cargo Test. This means that fewer than ten persons will be subject to any information collections under this test. Accordingly, collections of information within this notice are exempted from the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3502 and 3507).

Dated: July 7, 2015.

Todd C. Owen,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 2015–16943 Filed 7–9–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–28]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)–443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, 1000 Independence Ave. SW., Washington, DC 20585 (202) 287–1503; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: July 2, 2015.

Juanita Perry,

SNAPS Specialist/Title V Lead, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/10/2015

Suitable/Available Properties

Building

Georgia

Upper Tanyard Creek Day
Upper Tanyard Creek
Allatoona GA
Landholding Agency: COE
Property Number: 31201520009
Status: Unutilized
Comments: Off-site removal only; 26+ yrs. old; 483 sq. ft.; recreational toilet facility; very poor conditions; has been vandalized & needs repairs; no future agency need; contact COE for more information.

Nebraska

Grand Island U.S. Post Office and Courthouse
203 West 2nd Street
Grand Island NE 68801
Landholding Agency: GSA
Property Number: 54201520018
Status: Surplus
GSA Number: 7G–NE–0519–AA
Directions: (RPUID)NE0018ZZ
Comments: 105+ yrs. old; 5,508 sq. ft.; office; good condition; asbestos; sits on 0.53 acres; listed on Nat. Reg. of Historic Place; need to contact property manager for aces.; contact GSA for more info.

Land

Hawaii

1.76 Acre Parcel
Radford Drive & Kamehameha Hwy
JBPHH Honolulu HI 96860
Landholding Agency: Navy
Property Number: 77201520023
Status: Underutilized
Comments: 1.76 acres; landscape; because of legal constraint it is unlikely the parcel will be available for one year or more; no future agency need; contact Navy for more information.

Tennessee

(+/−) 72 Acre Site
5722 Integrity Dr.
Millington TN 38054
Landholding Agency: Navy
Property Number: 77201520025
Status: Underutilized
Comments: Current use: Family housing area (bldgs. demo in 2008); contamination—termiticide

Unsuitable Properties

Building

South Carolina

Building 155, Motor Transport
Garage
Cape Gauffre St.

MCRD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520026
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Building 156, Vehicle Shed
Cape Gauffre St.
MCRD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520027
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Building 156A, Vehicle Shed
Blvd. De France
MCRD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520028
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Building 176,
Vehicle Maintenance
Cape Gauffre St.
MCRD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520029
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Building 176A, Refueling
Vehicle Shop (Shed)
Cape Gauffre St.
MRCD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520030
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Building 759, Shotgun Range
Head
Wake Blvd.
MRCD Parris Island SC
Landholding Agency: Navy
Property Number: 77201520031
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

3 Buildings
Y–12 National Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41201520003
Status: Unutilized
Directions: 9409–34 Cooling Tower; 9727–04a Annex Building. 9727–04 Utility
Comments: Public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Land

Florida

450 Acre Land Parcel
NAS Pensacola Special Area Saufley Field
Pensacola FL 32508
Landholding Agency: Navy
Property Number: 77201520032
Status: Underutilized
Comments: Property located within an airport runway clear zone or military airfield; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Within airport runway clear zone

Mississippi

229 Acres
7th & 9th Sts./Goodier Ave & Upper Nixon Ave
Gulfport MS 39503
Landholding Agency: Navy
Property Number: 77201520024
Status: Unutilized
Comments: Public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

New Mexico

Sandia National Laboratories
6596
Albuquerque NM 87123
Landholding Agency: Energy
Property Number: 41201520002
Status: Excess
Comments: Public access denied and no alternative method to gain access without compromising National Security.
Reasons: Secured Area

Rhode Island

159 Acres Land
Naval Station Newport
Middletown RI 02841
Landholding Agency: Navy
Property Number: 77201520022
Status: Underutilized
Directions: McAllister Point Tank Farm 5 (11 acres);Tank Farm 4 (83 acres)
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

[FR Doc. 2015–16738 Filed 7–9–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2015–N131; FXIA16710900000–156–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 10, 2015.

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street

address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

Endangered Species

Applicant: Lionshare Farm Zoological, LLC, Greenwich, CT; PRT–60662B

The applicant requests a permit to import one female and one male cheetah (*Acinonyx jubatus jubatus*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: San Diego Zoo Global, San Diego, CA; PRT–70167B

The applicant requests a permit to biological samples from any endangered or threatened species for the purpose of scientific research, including but not limited to, phylogenetic, reproductive physiology, disease transmission, and applied animal ecology. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Frank Buck Zoo, Gainesville, TX; PRT–06588B

The applicant requests a renewal and amendment to their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: *For Renewal:* ring-tailed lemur (*Lemur catta*), black and white ruffed lemur (*Varecia variegata*), red ruffed lemur (*Varecia rubra*), cotton-top tamarin (*Saguinus oedipus*), lar gibbon (*Hylobates lar*), clouded leopard (*Neofelis nebulosa*), Galapagos tortoise (*Chelonoidis nigra*), and radiated tortoise (*Astrochelys radiata*). For *Amendment to Add:* Jackass penguin (*Spheniscus demersus*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Antonin Dvorak, Williamsville, NY; PRT–050667

The applicant requests a renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: radiated tortoise (*Astrochelys radiata*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Jerry Motta, Bushnell, FL; PRT–28014A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: *For Renewal:* African slender-snouted crocodile (*Crocodylus cataphractus*), Cuban crocodile (*Crocodylus rhombifer*), Nile crocodile (*Crocodylus niloticus*), Morelet's crocodile (*Crocodylus moreletii*), saltwater crocodile (*Crocodylus porosus*), Siamese crocodile (*Crocodylus siamensis*), African dwarf crocodile (*Osteolaemus tetraspis*), Yacare caiman (*Caiman yacare*), common caiman (*Caiman crocodilus crocodilus*), Cuban ground iguana (*Cyclura nubila*), Grand Cayman blue iguana (*Cyclura lewisi*), Galapagos tortoise (*Chelonoidis nigra*), and radiated tortoise (*Astrochelys radiata*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Hurricane Aviaries, Inc. Loxahatchee, FL; PRT–48384B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Golden parakeet (*Guarouba guarouba*) to enhance species propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Monty Davis, Cypress, TX; PRT–68842B

Applicant: Kyle Witwer, Fort Wayne, IN; PRT–69019B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2015–16834 Filed 7–9–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–MWR–CUVA–17694; PPMWMWROW2/PMP00UP05.YP0000]

Notice of Intent To Prepare an Environmental Impact Statement and Management Plan for Moose, Wolves, and Vegetation, Isle Royale National Park, Michigan

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: The National Park Service (NPS) announces that we are preparing an Environmental Impact Statement (EIS) for a plan to determine how to manage the Isle Royale moose population in light of the dynamic changes occurring on the island, in particular the declining wolf population.

DATES: The public comment period will begin on the date this Notice of Intent is published in the **Federal Register**. The comment period will close 30 days after the last scheduled public meeting and all comments must be postmarked or transmitted by this date.

ADDRESSES: Information, including a copy of the public scoping brochure, will be available for public review online at *http://parkplanning.nps.gov/ISRO.* Limited copies of the brochure will also be available at Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan and by request.

FOR FURTHER INFORMATION CONTACT: Superintendent Phyllis Green, or Chief of Natural Resources Paul Brown, Isle Royale National Park, Wolf-Moose-Vegetation Management Plan, 800 East Lakeshore Drive, Houghton, Michigan 49931–1896, or by telephone at (906) 482–0984.

SUPPLEMENTARY INFORMATION: Isle Royale is an island archipelago in the northwestern portion of Lake Superior. Organisms that live on islands have dynamic populations and are subject to immigration and extinction events. Local extirpation is natural and expected, as is establishment and re-establishment of new populations.

Wolves were first documented on Isle Royale through identification of tracks in 1949–50 and by 1957 the island supported an estimated 25 wolves. The first systematic research on Isle Royale wolves was conducted in the 1950s and has continued largely unabated. The research on the ''Wolves of Isle Royale'' is now world-renowned. Like many mainland wolf populations, the island population has fluctuated widely over this time, though on Isle Royale they have always been protected and never hunted or subjected to control efforts. Population variation on the island is related to inherent dynamic wolf ecology, island biogeography, and presence of disease in the wolf population. Wolves on Isle Royale have recently declined and the primary cause is thought to be genetic inbreeding leading to low productivity. With currently less than 10 individual wolves on the island, scientists differ on what will happen to the population in the short-term (25 years). Many believe that their persistence is doubtful unless new wolves emigrate or are introduced to the island.

The moose population on Isle Royale (which arrived on the island in the early 1900s) has fluctuated dramatically (500 to several thousand) over the past century. Moose have important effects on island vegetation including forest cover and wolves are the only moose predator on the island.

The park lies within a temperate-boreal forest transition zone where temperate tree species are at or near their northern range limits and boreal trees are near their southern range limits. Recent trends suggest the beginning of a shift from boreal to temperate vegetation. The relatively short-lived boreal paper birch and aspen, which established widely on lands disturbed by European settlement activities, are reaching the end of their natural lifespans and rapid successional changes in favor of more shade-tolerant tree species are underway. Successional trends on the island indicate that recent conditions favored temperate hardwood species, which expanded and replaced boreal trees. Since moose favor some boreal tree species such as balsam fir for food, this succession may alter the available moose forage in the future.

The wolf-moose-vegetation food web is tightly coupled. Since the wolf population at Isle Royale is very low and local extirpation of wolves is possible in the near future (*e.g.* only one gender remains on the island; the pack has been non-reproductive for three to five years; or there are no remaining wolves), the moose population is likely to continue to increase, resulting in impacts to vegetation and forest cover from moose herbivory.

A plan is needed to address environmental impacts that could occur to the moose population and vegetation from the potential extirpation of wolves. The purpose of the plan is to provide direction for managing the Isle Royale moose and wolf populations for at least the next 20 years in light of the dynamic changes occurring on the island.

In this context, we must determine allowable types of change. Specifically, we need to decide whether to intervene with a declined or extirpated wolf population in order to perpetuate the role wolves play with regard to the moose population through predation and spatial distribution (wolf management actions); whether to directly intervene with an increased moose population (moose management actions); and whether to intervene to manage vegetation to mitigate impacts from moose herbivory as temperate species replace the historical boreal forest (vegetation management actions). For each of these decisions, we must determine the type and extent of intervention appropriate in a designated wilderness given a changing climate. While specific alternatives have not yet been developed, options available include: (1) not actively managing moose, wolves, or vegetation; (2) managing moose abundance and distribution; (3) managing wolf abundance by supplementing the current wolf population or introducing wolves following extirpation; and (4) managing vegetation through the use of fire, direct restoration, or other tools.

Interested individuals, organizations, and agencies are encouraged to provide written comments regarding the scope of issues to be addressed in the EIS, alternative approaches to managing wolves, moose, or vegetation on Isle Royale, and other concerns regarding this conservation planning and environmental impact analysis process. Within the comment period, we intend to hold public scoping meetings on the EIS in the vicinity of the park, including Houghton, Michigan. Specific dates, times and locations of the public scoping meetings will be made available via a press release to local media, a public scoping brochure to be mailed or emailed to interested parties and on the NPS's Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/ISRO.* The NPS will provide additional opportunities for the public to offer written comments upon publication and release of the draft plan/EIS.

If you wish to comment during the public comment period, you may use any one of several methods. The preferred method for submitting comments is at the PEPC Web site address given above. You may also mail or hand-deliver your comments to the Superintendent or the Chief of Natural Resources at the address given above. Written comments will also be accepted during scheduled public meetings. Comments will not be accepted by fax, email, or any other way than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. 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: February 13, 2015.

Patricia S. Trap,

Acting Regional Director, Midwest Region.

This document was received at the Office of the Federal Register on Monday, July 06, 2015.

[FR Doc. 2015–16851 Filed 7–9–15; 8:45 am]

BILLING CODE 4310–MA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02800000, 15XR0687ND, RX.18527914.2050100]

Notice of Availability of the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement and Announcement of Public Meetings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: This notice announces the availability of the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft

Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for public review and comment. The RDEIR/SDEIS has been prepared jointly between the Bureau of Reclamation and the California Department of Water Resources to describe and analyze refinement of the resource area analyses, alternatives, and actions, including three additional alternatives that describe conveyance options not containing all the elements of a Habitat Conservation Plan/Natural Communities Conservation Plan described in the previously circulated Draft EIR/EIS released on December 13, 2013.

Based on project revisions and in consideration of comments received on the Draft Bay Delta Conservation Plan, Draft EIR/EIS, and Draft Implementing Agreement, the State and Federal lead agencies recognize that additional information is appropriate to address comments and to enhance the environmental analysis.

DATES: Comments on the RDEIR/SDEIS must be received or postmarked by 5 p.m. Pacific Time on August 31, 2015.

Two public meetings will be held to provide an overview of the project and allow public comment and discussion on the RDEIR/SDEIS:

- Tuesday, July 28, 2015, 3:00 p.m.–7:00 p.m., Sacramento, CA.
- Wednesday, July 29, 2015, 3:00 p.m.—7:00 p.m., Walnut Grove, CA.

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

1. *By email:* Submit comments to *BDCPComments@icfi.com.*

2. *By hard-copy:* Submit comments by U.S. mail to BDCP/WaterFix Comments, P.O. Box 1919, Sacramento, CA 95812.

The two public meetings will be held at the following locations:

- Sacramento—Sheraton Grand Sacramento Hotel, Magnolia Room, 1230 J Street, Sacramento, CA 95814.
- Walnut Grove—Jean Harvie Community Center, 14273 River Road, Walnut Grove, CA 95690.

To view or download the RDEIR/SDEIS, or for a list of locations to view hard-bound copies, go to *www.baydeltaconservationplan.com.*

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Banonis, Bureau of Reclamation, (916) 930–5676.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 2008, the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) issued a Notice of Intent (NOI) to prepare an EIS on the Bay Delta Conservation Plan (BDCP or Plan) (73 FR 4178). The NOI was re-issued on April 15, 2008, to include the Bureau of Reclamation (Reclamation) as a co-lead Federal agency, update the status of the planning process, and provide updated information related to scoping meetings (73 FR 20326). The April 15, 2008, NOI identified scoping meeting locations and stated that written comments would be accepted until May 30, 2008. Additional information was later developed to describe the proposed BDCP, and subsequent scoping activities were initiated on February 13, 2009, with the publication of a revised NOI (74 FR 7257). The NOI identified scoping meeting locations and stated that written comments would be accepted until May 14, 2009.

In 2008, ten public scoping meetings were held throughout California. In spring 2009, a summary update was produced and distributed about the development of the Plan to interested members of the public, including details of individual elements of the Plan (referred to in the Plan as ''conservation measures'') that were being considered as part of the conservation strategy. Twelve additional public scoping meetings were then held throughout California, seeking input about the scope of covered activities and potential alternatives to the proposed action.

In December 2010, the California Natural Resources Agency disseminated to the public a summary of the BDCP, its status, and a list of outstanding issues. In 2011 and 2012, public meetings continued in Sacramento, California, to update stakeholders and the public on elements of the draft BDCP and EIR/EIS that were being developed.

On December 13, 2013, the Draft BDCP and associated Draft EIR/EIS were released to the public and a 120-day public comment period was opened through notification in the **Federal Register** (78 FR 75939). That notice described the proposed action and a reasonable range of alternatives. Twelve more public meetings were held in California in early 2014. In response to requests from the public, the comment period was extended for an additional 60 days and closed on June 13, 2014 (79 FR 17135; March 27, 2014). A Draft Implementing Agreement was also made available to the public on May 30, 2014, for a 60-day review and comment period, which closed on July 29, 2014. The comment period of the Draft EIR/EIS was also extended to the later date. All draft documents are available at *www.baydeltaconservationplan.com.*

As a result of considering comments on the Draft BDCP, Draft EIR/EIS, and Draft Implementing Agreement, Reclamation and the California Department of Water Resources have proposed three additional conveyance alternatives for analysis in the RDEIR/SDEIS. These new alternatives 2D, 4A, and 5A, each contain fewer Conservation Measures than the conveyance alternatives circulated in the Draft EIR/EIS. Specifically, the new alternatives no longer contain the following Conservation Measures: CM–2 Yolo Bypass Fisheries Enhancement; CM–5 Seasonally Inundated Floodplain Restoration; CM–13 Invasive Aquatic Vegetation Control; CM–14 Stockton Deep Water Ship Channel Dissolved Oxygen Levels; CM–17 Illegal Harvest Reduction; CM–18 Conservation Hatcheries; CM–19 Urban Stormwater Treatment; CM–20 Recreational Users Invasive Species Program; and CM–21 Non-project Diversions. The new alternatives contain modified versions of the following Conservation Measures (referred to as Environmental Commitments in the RDEIR/SDEIS): CM–3 Natural Communities Protection and Restoration; CM–4 Tidal Natural Communities Restoration; CM–6 Channel Margin Enhancement; CM–7 Riparian Natural Community Restoration; CM–8 Grassland Natural Community Restoration; CM–9 Vernal Pool and Alkali Seasonal Wetland Complex Restoration; CM–10 Nontidal Marsh Restoration; CM–11 Natural Communities Enhancement and Management; CM–12 Methylmercury Management; CM–15 Localized Reduction of Predatory Fishes; and CM–16 Non-Physical Fish Barriers. The new alternatives are not structured as a Habitat Conservation Plan/Natural Communities Conservation Plan but are structured to achieve compliance with the Federal Endangered Species Act through consultation under Section 7 and the California Endangered Species Act through the incidental take permit process under Section 2081(b) of the California Fish & Game Code.

The California Department of Water Resources has identified Alternative 4A (known as the California WaterFix) as their proposed project and Reclamation has selected Alternative 4A as the National Environmental Policy Act (NEPA) preferred alternative. This alternative will consist of a water conveyance facility with three intakes, habitat restoration measures necessary to minimize or avoid project effects, and the previously described Conservation Measures. Alternative 4A is proposed to make physical and operational improvements to the State Water Project system in the Delta necessary to restore

and protect ecosystem health, water supplies of the State Water Project and Central Valley Project south-of-Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations.

The RDEIR/SDEIS will also analyze the impacts for two additional new alternatives: Alternative 2D, which will consist of a water conveyance facility with five intakes, and Alternative 5A, which will consist of a water conveyance facility with one intake. Both of these alternatives will contain the habitat protection and restoration measures necessary to minimize or avoid project effects, and the previously described Conservation Measures listed above. In addition, the RDEIR/SDEIS will describe and analyze project modifications and refinement of the resource area analyses, alternatives, and actions. Reclamation will be the Federal lead agency and NMFS, USFWS, and the U.S. Army Corps of Engineers, by virtue of their regulatory review requirements, will be cooperating agencies for the RDEIR/SDEIS. All other entities identified as Cooperating Agencies through prior agreements will retain their status for the RDEIR/SDEIS.

Council on Environmental Quality regulations for implementing NEPA (40 CFR 1502.9(c)) do not require any additional scoping for a supplement to a Draft EIS, and the lead agencies are not proposing any scoping process for this RDEIR/SDEIS in addition to the scoping that has already been done for the EIR/EIS as described above.

For further background information, see the December 13, 2013, **Federal Register** notice (78 FR 75939).

Public Disclosure of Comments

This notice is provided pursuant to NEPA. Reclamation is furnishing this notice to allow other agencies and the public an opportunity to review and comment on this RDEIR/SDEIS. All comments received will become part of the public record for this action. Comments on the RDEIR/SDEIS should be submitted to the address listed in the **ADDRESSES** section of this document. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments submitted to the above address will be reviewed and considered by all of the cooperating agencies.

Next Steps

Reclamation will compile and review all public comments on the RDEIR/SDEIS submitted to them prior to preparation of a final EIR/EIS. A decision by Reclamation on Central Valley Project operations consistent with the RDEIR/SDEIS will be made no sooner than 30 days after the publication of the final EIR/EIS. The decision will be documented with the completion of the Record of Decision.

Special Accommodations

The public meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Michelle Banonis, Bureau of Reclamation, (916) 930–5676 at least 5 working days prior to the meeting date.

Dated: July 2, 2015.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2015–16903 Filed 7–9–15; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–921]

Marine Sonar Imaging Devices, Including Downscan and Sidescan Devices, Products Containing the Same, and Components Thereof; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a final initial determination and recommended determination on remedy and bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof, imported by respondents Garmin International, Inc., Garmin USA, Inc., each of Olathe, Kansas, and Garmin (Asia) Corporation of New Taipei City, Taiwan, and a cease and desist order against the domestic respondents. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3438. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on EDIS at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on July 2, 2015. Comments should address whether issuance of a limited exclusion order and cease and desist order in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on August 11, 2015. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (Inv. No. 337–TA–908) in a prominent place on the cover page, the first page, or both. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Issued: July 6, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–16876 Filed 7–9–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–521 and 731–TA–1252–1255 and 1257 (Final)]

Certain Steel Nails From Korea, Malaysia, Oman, Taiwan, and Vietnam

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of certain steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam, provided for in subheadings 7317.00.55, 7317.00.65 and 7317.00.75 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (''LTFV''), and by reason of imports from Vietnam that have been found by Commerce to be subsidized by the government of Vietnam. [2] [3]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) and (19 U.S.C. 1673d(b)), instituted these investigations effective May 29, 2014, following receipt of a petition filed with the Commission and Commerce by Mid Continent Nail Corporation (Poplar Bluff, MO). The Commission scheduled the final phase of the investigations after Commerce published preliminary determinations that imports of certain steel nails from Korea, Malaysia, Oman, Taiwan, and Vietnam were dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)) and that imports of certain steel nails from Vietnam were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 29, 2014 (80 FR 3622, January 23, 2015). The hearing was held in Washington, DC, on May 14, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) and (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on July 6, 2015. The views of the Commission will be contained in USITC Publication 4541 (July 2015), entitled *Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam: Investigation Nos. 701–TA–521 and 731–TA–1252–1255 and 1257 (Final).*

By order of the Commission.

Issued: July 6, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–16878 Filed 7–9–15; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in section 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Meredith M. Broadbent dissenting.

[3] Commissioner F. Scott Kieff did not participate in these investigations.

DEPARTMENT OF JUSTICE

[OMB Number 1105–0094]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change, of a Previously Approved Collection Applications for Special Deputation

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until September 8, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Nicole Feuerstein, Publications Specialist, U.S. Marshals Service, CS–3, 10th Floor, Washington, DC 20530–0001 (phone: 202–307–5168).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Applications for Special Deputation.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form numbers are USM–3A and USM–3C. The applicable component within the Department of Justice is the U.S. Marshals Service.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal government and State/local government. Form USM–3A Application for Special Deputation/Sponsoring Federal Agency Information; Form USM–3C Group Special Deputation Request. The collection of information for these forms is authorized by 28 U.S.C. 562. The USMS is authorized to deputize selected persons to perform the functions of a Special Deputy U.S. Marshal whenever the law enforcement needs of the USMS so require and as designated by the Associate Attorney General pursuant to 28 CFR 0.19(a)(3). USMS Special Deputation files serve as a centralized record of the special deputations granted by the USMS to assist in tracking, controlling and monitoring the Special Deputation Program.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 6,000 respondents will complete a 15 minute form (Form USM–3A) and 5,500 respondents will complete a 10 minute form (Form USM–3C). The following factors were considered when creating the burden estimate: Based on testing, it takes an average of 15 minutes between the sponsor/applicant to complete a Form USM–3A and 10 minutes to complete a Form USM–3C. The estimated range of burden for USM–3A applicants is expected to be between 10 and 20 minutes for completion. The USM–3C range of burden varies greatly since it is meant for groups of applicants for short term operations while the USM–3A is for only one applicant. Taking that into consideration, we estimate that the range of burden for a USM–3C is between 5 and 15 minutes in the most common scenarios of between 1 and 10 applicants. USMS estimates that approximately 6,000 applicants will complete Form USM–3A and 5,500 applicants will complete Form USM–3C.

The following factors were considered when created the burden estimate: The estimated total number of active task force officers, the number of federal agencies requesting Special Deputation and their activity, the number of applications processed by the U.S. Marshals Service during the last five fiscal years by agency, upcoming regularly scheduled National Security Special Events that require large numbers of Special Deputy U.S. Marshals, Presidential Inaugurations, Special Operations, and unforeseen emergencies and natural disasters.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 2,417 hours. It is estimated that applicants will take 15 minutes to complete a Form USM–3A and 10 minutes to complete a Form USM–3C. In order to calculate the public burden for Form USM–3A, USMS multiplied 15 by 6,000 and divided by 60 (the number of minutes in an hour), which equals 1,500 total annual burden hours. In order to calculate the public burden for Form USM–3C, USMS multiplied 10 by 5,500 and divided by 60 (the number of minutes in an hour), which equals 917 total annual burden hours. In sum there are an estimated 2,417 total annual public burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: July 7, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–16877 Filed 7–9–15; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collections in the H–2B Temporary Non-Agricultural Employment-Based Visa Program (OMB Control Number 1205–0509), Extension

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the 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 (44 U.S.C. 3506(c)(2)(A)). This program helps 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 Employment and Training Administration (ETA) is soliciting comments concerning the information collections in the H–2B temporary non-agricultural employment-based visa program, which includes Form ETA–9142B, *H–2B Application for Temporary Employment Certification; Appendix B;* Form ETA–9155 *H–2B Registration;* and the *Seafood Industry Attestation. These forms all* expire on October 31, 2015. A copy of the proposed information collection request can be obtained free of charge by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 8, 2015.

ADDRESSES: Submit written comments to Brian Pasternak, National Director of Temporary Programs, Office of Foreign Labor Certification, Room C–4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2768. Email: *ETA.OFLC.Forms@dol.gov* subject line: ETA–9142B. A copy of the proposed information collection request (ICR) can be obtained free of charge by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by sections 101(a)(15)(H)(ii)(b) and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1011(a)(15)(H)(ii)(b) and 1184(c)) and 8 CFR 214.2(h)(6). Before an employer may petition for any temporary skilled or unskilled foreign workers, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and the Department of Labor's (Department) implementing regulations, which differ depending on the visa program under which the foreign workers are sought.

The H–2B visa program enables employers to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(b). For purposes of the H–2B program, the INA and governing federal regulations require the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States on a temporary basis for the purpose of performing non-agricultural services or labor will not, by doing so, adversely affect wages and working conditions of U.S. workers who are similarly employed. In addition, the Secretary must certify that qualified U.S. workers are not available to perform such temporary labor or services. (8 CFR 214.2(h)(6)(i)(A), (iii)(A).)

The Form ETA–9142B *H–2B Application for Temporary Employment Certification* is used to collect information to permit the Department to meet its statutory responsibilities for administering the H–2B nonimmigrant temporary non-agricultural employment-based visa program. *Appendix B* of the Form ETA–9142B is used by employers to attest that they will comply with all of the terms, conditions, and obligations of the H–2B program.

The Form ETA–9155 *H–2B Registration* is a new form required by the regulations that went into effect April 29, 2015. Once its use is fully implemented, it will allow the Department to make a preliminary determination with respect to an employer's temporary need, and issue to the employer an *H–2B Registration* to be used in connection with subsequent labor certification applications for a period of up to three consecutive years. Once the ETA–9155 registration form is implemented, an H–2B employer will have to register with the Department prior to submitting its request for labor certification.

The *Seafood Industry Attestation* is an attestation used specifically by employers in the seafood industry who would like to avail themselves of the staggered entry provision for H–2B workers recently enacted by Congress in the Consolidated and Further Continuing Appropriations Act of 2015, Public Law 113–235.

II. Review Focus

DOL 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 submissions of responses.

III. Current Actions

Type of Review: Extension.

Title: H–2B Temporary Nonagriculrural Employment Certification Program.

OMB Number: 1205–0509.

Affected Public: Individuals or Households, Private Sector—businesses or other for profits, Government, State, Local and Tribal Governments.

Form(s): ETA–9142B, *H–2B Application for Temporary Employment Certification; Appendix B;* ETA–9155, *H–2B Registration;* and *Seafood Industry Attestation.*

Total Annual Respondents: 7,355.

Annual Frequency: On Occasion.

Total Annual Responses: 184,442.

Average Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 47,992.

Total Annual Burden Cost for Respondents: $3,668,029.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (*e.g.,* confidential business information or personally identifiable information such as a social security number).

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2015–16874 Filed 7–9–15; 8:45 am]

BILLING CODE 4510–FP–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–055]

NASA Advisory Council; Technology, Innovation, and Engineering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Technology, Innovation and Engineering (TI&E) Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. This meeting will include a joint session with the NAC Human Exploration and Operations (HEO) Committee.

DATES: Monday, July 27, 2015, 12:00 p.m.–5:30 p.m., Local Time; and Tuesday, July 28, 2015, 8:00 a.m.–2:00 p.m., Local Time.

ADDRESSES: Jet Propulsion Laboratory, Building 180, Room 101, 4800 Oak Grove Drive, Pasadena, CA 91019. **Note:** Meeting location for the joint session with the NAC HEO Committee will be Building 186, Von Kármán Auditorium, from 1:00 p.m.–5:30 p.m., Local Time, on July 27.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Executive Secretary for the

NAC TI&E Committee, Space Technology Mission Directorate, NASA Headquarters, Washington, DC 20546, phone number 202–358–4710, or *g.m.green@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may call the USA toll-free conference call number 1–844–467–6272, passcode 102421, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 999 142 659, and the password is Technology15%. The joint meeting with the NAC HEO Committee will use the USA toll-free conference call number 1–888–455–6733 or toll number 1–210–839–8935. The numeric participant passcode is 3453695. The WebEx link is *https://nasa.webex.com,* the meeting number is 999 635 873, and the password is Exploration@2015 (case sensitive).

The agenda for the NAC TI&E Committee meeting includes the following topics:

—Space Technology Mission Directorate Update
—Remarks by Jet Propulsion Laboratory Center Director
—Briefing on Impacts of Space Technology Mission Directorate Budget Reductions on Major Projects
—Update on Low Density Supersonic Decelerator Project
—Update on Deep Space Atomic Clock Project
—Update on Deep Space Optical Communications Project
—Office of the Chief Technologist Update

The joint session with the NAC HEO Committee includes the following topics:

—Overview of Space Technology Program
—Briefing of Evolvable Mars Strategy and HEO Technology Development Efforts
—Overview of Hydrocarbon Engine Activities
—Overview of NASA Launch Services

Attendees will be required sign a register and to comply with Jet Propulsion Laboratory (JPL) security requirements including presentation of a valid picture ID (such as a driver's license for U.S. Citizens; Permanent Resident green card; or passport/visa for non-U.S. Citizens) before receiving admittance to JPL. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of identification: [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Individuals without proper identification will not be admitted to the JPL. Members of the public interested in attending this meeting must contact Ms. Helen N. Paley of JPL at phone number 818–354–6427 or *helen.n.paley@jpl.nasa.gov* to receive a listing of the information required prior to admittance to JPL. Completed information spreadsheet must be emailed to Ms. Paley by no later than Friday, July 17, 2015. It is imperative that this meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–16828 Filed 7–9–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–052)]

NASA Advisory Council; Aeronautics Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Tuesday, July 28, 2015, 9:00 a.m.–5:00 p.m., Local Time.

ADDRESSES: Jet Propulsion Laboratory, Building 180, Room 703C, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda L. Mulac, Executive Secretary for the NAC Aeronautics Committee, NASA Headquarters, Washington, DC 20546, phone number 202–358–1578, or *brenda.l.mulac@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any person interested in participating in the meeting by telephone and WebEx should contact Ms. Brenda L. Mulac at 202–358–1578 for the web link, toll-free number and passcode. The agenda for the meeting includes the following topics:

- Shadow Mode Assessment of Realistic Technologies for the National Airspace System (SMART–NAS) for Safe Trajectory Based Operations (TBO)
- National Research Council (NRC) Low Carbon Study
- Global Air Traffic Management

Attendees will be required sign a register and to comply with Jet Propulsion Laboratory (JPL) security requirements including presentation of a valid picture ID (such as a driver's license for U.S. Citizens; Permanent Resident green card; or passport/visa for non-U.S. Citizens) before receiving admittance to JPL. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of identification: [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Individuals without proper identification will not be admitted to the JPL. Members of the public interested in attending this meeting must contact Ms. Helen N. Paley of JPL at phone number 818–354–6427 or *helen.n.paley@jpl.nasa.gov* to receive a listing of the information required prior to admittance to JPL. Completed information spreadsheet must be emailed to Ms. Paley by no later than Friday, July 17, 2015. It is imperative that this meeting be held on these dates

to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–16825 Filed 7–9–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–056]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, July 27, 2015, 9:30 a.m. to 5:00 p.m., Local Time; Tuesday, July 28, 2015, 8:00 a.m. to 1:00 p.m.; Local Time; and Wednesday, July 29, 2015, 8:00 a.m. to 9:45 a.m., Local Time.

ADDRESSES: Jet Propulsion Laboratory, Building 167, Special Events Room (SER), 4800 Oak Grove Drive, Pasadena, CA 91011.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free conference call number 1–800–988–9663, passcode 8015, to participate in this meeting by telephone on all three days. A toll number also is available, 1–517–308–9483, passcode 8015, for all three days. The WebEx link is *https://nasa.webex.com/;* the meeting number is 991 957 517 and the password is Science@July2015 for all three days. The agenda for the meeting includes the following topics:

—Pluto Close Approach by New Horizons
—Planetary Protection
—Science Mission Directorate Division Director Briefings
—Subcommittee Reports

Attendees will be required sign a register and to comply with Jet Propulsion Laboratory (JPL) security requirements including presentation of a valid picture ID (such as a driver's license for U.S. Citizens; Permanent Resident green card; or passport/visa for non-U.S. Citizens) before receiving admittance to JPL. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of identification: [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Individuals without proper identification will not be admitted to the JPL. Members of the public interested in attending this meeting must contact Ms. Helen N. Paley of JPL at phone number 818–354–6427 or *helen.n.paley@jpl.nasa.gov* to receive a listing of the information required prior to admittance to JPL. Completed information spreadsheet must be emailed to Ms. Paley by no later than Friday, July 17, 2015. It is imperative that this meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–16916 Filed 7–9–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–053)]

NASA Advisory Council; Institutional Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Institutional Committee of the NASA Advisory Council (NAC). This committee reports to the NAC.

DATES: Tuesday, July 28, 2015, 8:30 a.m.–5:45 p.m., Local Time; and Wednesday, July 29, 2015, 8:00 a.m.–10:00 a.m., Local Time.

ADDRESSES: Jet Propulsion Laboratory, Building 183, Room 328, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Mullins, Executive Secretary for the NAC Institutional Committee, NASA Headquarters, Washington, DC 20546, phone number 202–358–3831, or *todd.mullins@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting Any interested person may dial the toll free access number 844–467–6272 or toll access number 720–259–6462, and then the numeric participant passcode: 180093 followed by the # sign. To join via WebEx on July 28, the link is *https://nasa.webex.com/*, the meeting number is 993 032 544 and the password is Meeting2015! (Password is case sensitive.) To join via WebEx on July 29, the link is *https://nasa.webex.com/*, the meeting number is 998 221 846 and the password is Meeting2015! (Password is case sensitive.) NOTE: If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Business Services Assessment Status
—IT Security Status
—Jet Propulsion Laboratory—NASA Management Office Overview
—Committee Discussion

Attendees will be required sign a register and to comply with Jet Propulsion Laboratory (JPL) security requirements including presentation of a valid picture ID (such as a driver's license for U.S. Citizens; Permanent Resident green card; or passport/visa for non-U.S. Citizens) before receiving admittance to JPL. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of identification: [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on

Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Individuals without proper identification will not be admitted to the JPL. Members of the public interested in attending this meeting must contact Ms. Helen N. Paley of JPL at phone number 818–354–6427 or *helen.n.paley@jpl.nasa.gov* to receive a listing of the information required prior to admittance to JPL. Completed information spreadsheet must be emailed to Ms. Paley by no later than Friday, July 17, 2015. It is imperative that this meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–16826 Filed 7–9–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–054)]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations (HEO) Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Monday, July 27, 2015, 10:00 a.m.–5:30 p.m., Local Time; and ; Tuesday, July 28, 2015, 8:00 a.m.–5:30 p.m., Local Time.

ADDRESSES: Jet Propulsion Laboratory, Building 186, Von Kármán Auditorium, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Executive Secretary for the NAC HEO Committee, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, phone number 202–358–2245, or *bette.siegel@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the USA toll-free conference call number 1–888–455–6733 or toll number 1–210–839–8935, and then the numeric participant passcode 3453695, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/*, the meeting number is 999 635 873, and the password is Exploration@2015 (case sensitive).

The agenda for the meeting includes the following topics:

—Status of the NASA Human Exploration and Operations Mission Directorate
—Jet Propulsion Laboratory Study of Humans to Mars
—Joint Session with NAC Technology, Innovation, and Engineering Committee
—Overview of Space Technology Program
—Briefing of Evolvable Mars Strategy and HEO Technology Development Efforts
—Overview of Hydrocarbon Engine Activities
—Overview of NASA Launch Services
—Communications Strategy
—Exploration Systems Development Status
—Asteroid Redirect Mission Status
—Commercial Crew Program Status
—International Space Station Status

Attendees will be required sign a register and to comply with Jet Propulsion Laboratory (JPL) security requirements including presentation of a valid picture ID (such as a driver's license for U.S. Citizens; Permanent Resident green card; or passport/visa for non-U.S. Citizens) before receiving admittance to JPL. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of identification: [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Individuals without proper identification will not be admitted to the JPL. Members of the public interested in attending this meeting must contact Ms. Helen N. Paley of JPL at phone number 818–354–6427 or *helen.n.paley@jpl.nasa.gov* to receive a listing of the information required prior to admittance to JPL. Completed information spreadsheet must be emailed to Ms. Paley by no later than Friday, July 17, 2015. It is imperative that this meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–16827 Filed 7–9–15; 8:45 am]

BILLING CODE 7510–13–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests; Museum Assessment Program Evaluation

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), 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 and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. 35). This pre-clearance consultation 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. By this notice, IMLS is soliciting comments concerning a proposed survey to collect information to monitor the use, expectations, of and satisfaction with cultural programs and services, particularly library and museum services.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 8, 2015.

IMLS is particularly interested in comments that help the agency 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 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.

ADDRESSES: Send comments to: Christopher J. Reich, Senior Advisor, Institute of Museum and Library Services, 1800 M St. NW., 9th Floor, Washington, DC 20036. Mr. Reich can be reached by Telephone: 202–653–4685, Fax: 202–653–4608, or by email at *creich@imls.gov,* or by teletype (TTY/TDD) at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 35,000 museums. The Institute's mission is to inspire libraries and museums to advance innovation, learning, and civic engagement. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development. IMLS is responsible for identifying national needs for and trends in museum, library, and information services; measuring and reporting on the impact and effectiveness of museum, library and information services throughout the United States, including programs conducted with funds made available by IMLS; identifying, and disseminating information on, the best practices of such programs; and developing plans to improve museum, library, and information services of the United States and strengthen national, State, local, regional, and international communications and cooperative networks (20 U.S.C. 72, 20 U.S.C. 9108).

II. Current Actions

The purpose of this survey is to gauge the effect of the Museum Assessment Program (MAP) on participating museums and the museum field at large. The survey will be used to measure the degree to which the program is meeting the needs and building the institutional capacity of individual museums, and its overall impact on the museum field nationwide. Methods will include web surveys, telephone interviews, and focus group meetings.

The web survey will consist of approximately 40 questions that will examine the participating museums' experience with the MAP program and the subsequent changes in its operations that can be attributed to the program, as well as basic institutional profile information. The web survey will require an average of 60 minutes to complete. The telephone interview guide will be organized into approximately four sections (*e.g.* institutional changes resulting from MAP participation; funding; professionalization; and future expectations) and is projected to average 30 minutes to complete. Focus groups will be organized to generate shared experiences and discussion relating to overall impact on the museum field at large. No more than six focus groups will be organized, each involving 10–12 persons for a period of approximately one hour.

Agency: Institute of Museum and Library Services.

Title: Museum Assessment Program Evaluation.

OMB Number: To Be Determined.

Frequency: Anticipated for Every Five Years.

Affected Public: The target population is museums that have participated in the Museum Assessment Program during the past five years, all of which are located in the United States.

Number of Respondents: 132.

Estimated Average Burden per Response: The burden per respondent is estimated to be an average of one hour for the web survey, 30 minutes for the telephone interview and one hour for the focus groups.

Estimated Total Annual Burden: 132 hours.

Total Annualized capital/startup costs: n/a.

Total Annual costs: To be determined.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Christopher J. Reich, Senior Advisor, Institute of Museum and Library Services, 1800 M St. NW., 9th Floor, Washington, DC 20036. Mr. Reich can be reached by Telephone: 202–653–4685, Fax: 202–653–4608, or by email at *creich@imls.gov,* or by teletype (TTY/TDD) at 202–653–4614. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Dated: July 6, 2015.

Kim Miller,

Management Analyst.

[FR Doc. 2015–16845 Filed 7–9–15; 8:45 am]

BILLING CODE 7036–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Qualified Domestic Relations Orders Submitted to PBGC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend its approval, under the Paperwork Reduction Act, of the information collection related to PBGC's booklet, Qualified Domestic Relations Orders & PBGC. The booklet provides guidance on how to submit a qualified domestic relations order to PBGC. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted by September 8, 2015.

ADDRESSES: Comments may be submitted by any of the following methods:

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

• *Email: paperwork.comments@pbgc.gov.*

• *Fax:* 202–326–4224.

• *Mail or Hand Delivery:* Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

PBGC will make all comments available on its Web site at *www.pbgc.gov.*

Copies of the collection of information may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting that office 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 regulations relating to this collection of information are available on PBGC's Web site at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns, 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, 202–326–4223. (For TTY and TDD, call 800–877–8339 and ask to be connected to 202–326–4223.)

SUPPLEMENTARY INFORMATION: A defined benefit pension plan that does not have enough money to pay benefits may be terminated if the employer responsible for the plan faces severe financial difficulty, such as bankruptcy, and is unable to maintain the plan. In such an event, PBGC becomes trustee of the plan and pays benefits, subject to legal limits, to plan participants and beneficiaries.

The benefits of a pension plan participant generally may not be assigned or alienated. Title I of ERISA provides an exception for domestic relations orders that relate to child support, alimony payments, or marital property rights of an alternate payee (a spouse, former spouse, child, or other dependent of a plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it a qualified domestic relations order (QDRO).

When PBGC is trustee of a plan, it reviews submitted domestic relations orders to determine whether the order is qualified before paying benefits to an alternate payee. The requirements for submitting a domestic relations order and the contents of such orders are established by statute. The models and the guidance provided by PBGC assist parties by making it easier for them to comply with ERISA's QDRO requirements in plans trusteed by PBGC; they do not create any additional requirements and result in a reduction of the statutory burden.

OMB has approved the collection of information in PBGC's booklet, *Qualified Domestic Relations Orders & PBGC* under control number 1212–0054 through October 31, 2015. PBGC intends to request that OMB extend approval of the collection of information for 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 is not proposing any substantive changes to the booklet.

PBGC estimates that over the next three years it will receive approximately 1,200 domestic relations orders each year from prospective alternate payees and participants. PBGC further estimates that the total average annual burden of this collection of information will be approximately 2,100 hours and $350,000.

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collections 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 collections 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 July 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–16929 Filed 7–9–15; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–62 and CP2015–93; Order No. 2563]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 129 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 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

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 129 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, 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 Nos. MC2015–62 and CP2015–93 to consider the Request pertaining to the proposed Priority Mail Contract 129 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 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 July 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–62 and CP2015–93 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent

[1] Request of the United States Postal Service to Add Priority Mail Contract 129 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 2, 2015 (Request).

the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than July 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. 2015–16833 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–74; Order No. 2566]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to the existing Priority Mail Contract 62 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 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

On June 23, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 62 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Amendment and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.* at 1.

The Amendment replaces the rate table in section I.F. of the contract. *Id.,* Attachment A at 1.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than July 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2013–74 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than July 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. 2015–16843 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–63; Order No. 2565]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to the existing Priority Mail Contract 88 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 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

On July 2, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 88 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment.

The Postal Service also filed the unredacted Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment changes terms of applicability for Priority Mail shipments under the contract.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than July 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to represent the interests of the

[1] Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 62, June 23, 2015 (Notice).

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 88, with Portions Filed Under Seal, July 2, 2015 (Notice).

general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–63 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than July 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. 2015–16832 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–63 and CP2015–94; Order No. 2567]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail & First-Class Package Service Contract 6 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 14, 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

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail & First-Class Package Service Contract 6 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, 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 Nos. MC2015–63 and CP2015–94 to consider the Request pertaining to the proposed Priority Mail & First-Class Package Service Contract 6 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 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 July 14, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–63 and CP2015–94 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than July 14, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–16926 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 6 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 2, 2015 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–61 and CP2015–92; Order No. 2564]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 128 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 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

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 128 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of

[1] Request of the United States Postal Service to Add Priority Mail Contract 128 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 2, 2015 (Request).

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 Nos. MC2015–61 and CP2015–92 to consider the Request pertaining to the proposed Priority Mail Contract 128 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 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 July 13, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–61 and CP2015–92 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than July 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. 2015–16831 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 128 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–61, CP2015–92.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16847 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–10–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* July 10, 2015

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 129 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–62, CP2015–93.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16849 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 2, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 6 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–63, CP2015–94.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16848 Filed 7–9–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: [80 FR 38782, July 7, 2015]

STATUS: Closed Meeting.

PLACE: 100 F Street NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, July 9, 2015 at 2 p.m.

CHANGE IN THE MEETING: Time Change.

The Closed Meeting scheduled for Thursday, July 9, 2015 at 2 p.m. has been changed to Thursday, July 9, 2015 at 1 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: July 7, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–16982 Filed 7–8–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of International Hi-Tech Industries Inc., Mark One Global Industries, Inc., Nortel Networks Corporation, and Silverado Gold Mines Ltd.; Order of Suspension of Trading

July 8, 2015.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of International Hi-Tech Industries Inc. (CIK No. 921887) (''IHITF'' [1]), a Canadian corporation with its principal place of business in Vancouver, British Columbia, Canada, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link'') because it has not filed any periodic reports since the period ended December 31, 2005. On June 28, 2013, the Division of Corporation Finance (''Corporation Finance'') sent a delinquency letter to IHITF requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but IHITF did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mark One Global Industries, Inc. (CIK No. 1000791) (''MKGLF''), a British Columbia corporation with its principal place of business in Olathe, Kansas, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended December 31, 2009. On April 29, 2013, Corporation Finance sent a delinquency letter to MKGLF requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but MKGLF did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nortel Networks Corporation (CIK No. 72911) (''NRTLQ''), a Canadian corporation with its principal place of business in Mississauga, Ontario, Canada, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended June 30, 2012. On October 17, 2014, Corporation Finance sent a delinquency letter to NRTLQ requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission which was delivered.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Silverado Gold Mines Ltd. (CIK No. 731727) (''SLGLF''), a defaulted British Columbia corporation with its principal place of business in Surrey, British Columbia, Canada, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended August 31, 2011. On September 13, 2013, Corporation Finance sent a delinquency letter to SLGLF requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission which was delivered.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 8, 2015, through 11:59 p.m. EDT on July 21, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–17015 Filed 7–8–15; 11:15 am]

BILLING CODE 8011–01–P

[1] The short form of each issuer's name is also its ticker symbol.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75365; File No. SR–FINRA–2015–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Rule 4553 and Fees for Access to Alternative Trading System Volume Information Published on FINRA's Web Site

July 6, 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 June 29, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. 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] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to remove Rule 4553 (Fees for ATS Data) from the FINRA rulebook.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

* * * * *

4500. BOOKS, RECORDS AND REPORTS

* * * * *

4550. ATS Reporting

* * * * *

[4553. Fees for ATS Data]

[(a) General]

[Fees are charged for ATS Data as set forth in this Rule. Professionals and Vendors must pay the subscription fee to receive ATS Data in accordance with this Rule and execute appropriate agreements with FINRA.]

[(b) Professionals]

[(1) Professionals may subscribe for the most currently published ATS Data and up to five years of historical ATS Data in a downloadable, pipe delimited format for a twelve-month subscription fee of $12,000. Such fee is not refundable or transferable.]

[(2) Payment of the Professional subscription fee described in this paragraph (b) provides the Professional with use of such ATS Data to generate Derived Data.]

[(3) Professionals may distribute ATS Data or Derived Data to their employees, affiliates, or employees of affiliates but are prohibited from providing ATS Data or Derived Data to any third party.]

[(c) Vendors]

[(1) Vendors may subscribe for access to the most currently published ATS Data and up to five years of historical ATS Data in a downloadable, pipe delimited format for a twelve-month subscription fee of $18,000. Such fee is not refundable or transferable.]

[(2) Payment of the Vendor subscription fee described in this paragraph (c) provides the Vendor with use of such ATS Data to generate Derived Data.]

[(3) Vendors are prohibited from providing ATS Data to any third party unless a Professional subscription has been purchased

for each such third party in accordance with paragraph (b) above.]

[(d) Non-Professionals]

[(1) There shall be no charge paid by a Non-Professional for access to the most recently published four weeks of ATS Data; however, such ATS Data will not be available in a downloadable format.]

[(2) A Non-Professional must agree to terms of use before accessing the ATS Data, including that he or she receives and uses the ATS Data solely for his or her personal, non-commercial use and will not otherwise distribute the ATS Data or Derived Data to other parties. The terms of use for Non-Professionals will be clearly posted on the FINRA.org Web site, and access to the non-fee liable ATS Data content will require a user to acknowledge the terms of use.]

[(e) Definitions]

[For purposes of this rule, the following terms have the meaning set forth:]

[(1) ''ATS Data'' means Trading Information published by FINRA on its Web site.]

[(2) ''Derived Data'' means data that is derived from ATS Data and that is not able to be (A) reverse engineered by a reasonably skilled user into ATS Data or (B) used as a surrogate for ATS Data.]

[(3) ''Non-Professional'' means a natural person who uses the ATS Data solely for his or her personal, non-commercial use. A ''Non-Professional'' is not:]

[(A) registered nor qualified in any capacity with the SEC, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, nor an employee of the above and, with respect to any person identified in this subparagraph (A), uses ATS Data for other than personal, non-commercial use;]

[(B) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act (whether or not registered or qualified under that Act), nor an employee of the above and, with respect to any person identified in this subparagraph (B), uses ATS Data for other than personal, non-commercial use;]

[(C) employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, nor any other employee of a bank, insurance company or such other organization referenced above and, with respect to any person identified in this subparagraph (C), uses ATS Data for other than personal, non-commercial use; nor]

[(D) engaged in, nor has the intention to engage in, any commercial redistribution of all or any portion of the ATS Data or Derived Data.]

[(4) ''Professional'' means any non-natural person or any natural person that does not meet the definition of ''Non-Professional'' in subparagraph (3).]

[(5) ''Trading Information'' has the same meaning as set forth in Rule 4552.]

[(6) ''Vendor'' means a Professional who distributes ATS Data or Derived Data to any third party.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 17, 2014, the SEC approved a proposed rule change to (i) adopt Rule 4552 (Alternative Trading Systems—Trading Information for Securities Executed Within the Alternative Trading System) to require alternative trading systems (''ATSs'')[5] to report to FINRA weekly volume information and number of trades regarding securities transactions within the ATS (''ATS Data'') and to publish the ATS Data on a delayed basis on FINRA's Web site;[6] and (ii) amend FINRA Rules 6160, 6170, 6480, and 6720 to require each ATS to acquire and use a single, unique market participant identifier (''MPID'') when reporting information to FINRA (''MPID Requirement'').[7] The implementation date for the reporting requirements under Rule 4552 was May 12, 2014, and FINRA began publishing the ATS Data for equity securities on its Web site on June 2, 2014.[8] On May 29, 2014, the SEC approved Rule 4553, which established a fee schedule for access to the ATS Data.[9] The proposed rule change deletes Rule 4553.

Under Rule 4552, individual ATSs are required to submit weekly reports to FINRA regarding equity security volume information within the ATS, including share volume and number of trades for both NMS stocks and OTC equity securities.[10] The first reports pursuant to Rule 4552 were due to FINRA by May 28, 2014, covering the week of May 12–16, 2014.[11] After FINRA began receiving the self-reported data from ATSs, FINRA began publishing on its Web site, on a delayed basis, the reported information for each equity security for each ATS with appropriate disclosures that the published volume numbers are based on ATS-submitted reports and not on reports produced or validated by FINRA.[12] FINRA currently makes available on its Web site the ATS Data through weekly reports listing aggregate volume and number of trades by security for each ATS within the designated time period.

Rule 4553 establishes three categories of users of the ATS Data, each of which is entitled to different levels and use of data and is subject to a different fee structure: (i) Non-Professionals; (ii) Professionals; and (iii) Vendors.[13] Under Rule 4553, the most recently published four weeks of ATS Data is accessible to Non-Professionals[14] at no

[5] Regulation ATS defines an ''alternative trading system'' as ''any organization, association, person, group of persons, or system: (1) That constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b–16]; and (2) That does not: (i) Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such organization, association, person, group of persons, or system; or (ii) Discipline subscribers other than by exclusion from trading.'' 17 CFR 242.300(a). Rule 4552 applies to any alternative trading system, as that term is defined in Regulation ATS, that has filed a Form ATS with the Commission. *See* Rule 4552(a).

[6] FINRA subsequently filed a proposed rule change to limit the reporting requirements in Rule 4552 to equity securities and exclude TRACE-Reportable Securities. *See* Securities Exchange Act Release No. 71911 (April 9, 2014), 79 FR 21316 (April 15, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–017).

[7] *See* Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Order Approving File No. SR–FINRA–2013–042). The MPID Requirement was subsequently amended to permit the use of two MPIDs by a single ATS provided each MPID is used only to report to either the Trade Reporting and Compliance Engine (''TRACE'') or one or more of FINRA's equity reporting facilities. *See* Securities Exchange Act Release No. 71911 (April 9, 2014), 79 FR 21316 (April 15, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–017).

[8] The MPID Requirement was implemented on February 2, 2015. *See* Securities Exchange Act Release No. 73340 (October 10, 2014), 79 FR 62500 (October 17, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–042).

[9] *See* Securities Exchange Act Release No. 72280 (May 29, 2014), 79 FR 32351 (June 4, 2014) (Order Approving File No. SR–FINRA–2014–018) (''ATS Fee Approval Order'').

[10] *See* Rule 4552(a), (d)(4).

[11] *See Regulatory Notice* 14–07 (February 2014).

[12] *See* Rule 4552(b).

[13] Any individual seeking access to the ATS Data on FINRA's Web site must confirm that he or she is either (i) a Non-Professional or (ii) a Professional (or an affiliate or employee thereof) that has a current Professional or Vendor subscription.

[14] A ''Non-Professional'' is generally a natural person who uses the ATS Data solely for his or her personal, non-commercial use and is not: (i) Registered or qualified in any capacity with the SEC, the Commodity Futures Trading Commission,

cost on FINRA's Web site, and FINRA provides a basic web display listing all reporting ATSs and aggregate volume and number of trades for each symbol in which a trade was reported by the ATS during the designated time period.[15] Non-Professionals may access, at no cost, the most recent four weeks of ATS Data in a viewable, but not downloadable, format. A Non-Professional must certify that he or she is a ''Non-Professional'' within the meaning of Rule 4553 and agree to certain terms of use of the ATS Data, including representations that he or she receives and uses the ATS Data solely for his or her personal, non-commercial use, and conditions regarding use of the data and prohibiting redistribution of the data.

Under Rule 4553, Professionals are required to pay an annual, enterprise-wide subscription fee of $12,000 that is non-transferable and renewable annually to access the ATS Data.[16] A Professional who has paid the subscription fee has access to the same ATS Data available to Non-Professionals. However, a Professional subscription allows a user access to the 27 most current weeks of published reports (Non-Professionals are limited to four weeks) as well as access to historical ATS Data in a downloadable format.[17] The Professional subscription allows an unlimited number of users within the firm to access the ATS Data.[18] Thus, regardless of the size of the entity in question, the subscription fee for the entity is $12,000 for a twelve-month subscription. Professionals are not permitted to redistribute ATS Data or Derived Data outside of the enterprise (*e.g.,* to their customers); however, Professionals are permitted to distribute ATS Data and Derived Data within the enterprise (including the firm, any affiliates of the firm, and employees thereof). Professionals are required to agree to the terms of FINRA's ATS Data Subscriber Agreement, which establishes the terms and conditions of access to the ATS Data.

Rule 4553 also includes a Vendor subscription fee of $18,000 per year.[19] A Vendor subscription permits a Vendor to redistribute the ATS Data or Derived Data within and outside the enterprise; however, a Vendor may provide this data to a third party only if a yearly, non-transferable, enterprise-wide Professional subscription has been purchased for each such third party. Vendors must track specific users and their entitlements (and annual commitment term) and are subject to regular audits to ensure accurate and timely compliance with re-dissemination reporting and payment. Vendors are responsible for reporting entity usage as a result of their redistribution of the data.

FINRA established the fee rates for access to ATS Data by Professionals and Vendors to recover the costs associated with collecting, formatting, and disseminating the data.[20] FINRA noted, when proposing the fee, that it did not have an exact estimate as to how many subscribers will ultimately pay to access ATS Data and stated that FINRA intended to reassess the fairness and reasonableness of the fee once it had experience with the actual usage and ultimate fees paid to access ATS Data.[21]

After approximately one year of receiving and disseminating the ATS Data on FINRA's Web site, FINRA has reviewed the usage of the ATS Data and the costs incurred and is proposing to eliminate the fee for all potential users and disseminate the ATS Data on its Web site at no charge. FINRA has found that there are significantly fewer firms and data vendors accessing the ATS Data than anticipated, which limits the opportunities for broader dissemination and analysis of the data FINRA makes available. By making the ATS Data available at no cost, FINRA believes more data vendors and firms will access the ATS Data and provide useful statistics and analysis to the industry and to individual investors and the public. FINRA currently anticipates making publicly available on its Web site 27 weeks of online reports and up to five years of historical reports available in a downloadable format.[22]

As FINRA noted when it proposed collecting and disseminating the ATS Data, Rule 4552 was intended in part to increase transparency in the over-the-counter market. Although Rule 4552 has no doubt achieved this goal, particularly by providing individual investors with access to the ATS Data at no cost, FINRA believes that transparency may be even further enhanced by eliminating the fee for Professionals and Vendors so that individual investors and the public can benefit from more detailed and widely-available analysis of the ATS Data. Consequently, FINRA is proposing to eliminate the fee for Professionals and Vendors and make the ATS Data publicly available at no cost.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be July 13, 2015. FINRA staff is currently working on changes to FINRA's Web site to enable all users to access the ATS Data and to remove functionality that currently limits access to the ATS Data to either Non-Professionals or those with paid subscriptions. FINRA anticipates that these changes will be made so that the ATS Data will be publicly available beginning July 13, 2015. Until that time, the ATS Data will continue to be available only to paid subscribers or, in more limited formats, to Non-Professionals consistent with Rule 4553.[23]

any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, nor an employee of the above; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act (whether or not registered or qualified under that Act), nor an employee of the above; (iii) employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, nor any other employee of a bank, insurance company or such other organization referenced above; or (iv) engaged in, or has the intention to engage in, any commercial redistribution of all or any portion of the ATS Data or Derived Data. *See* Rule 4552(e)(3); *see also* 15 U.S.C. 80b–2(a)(11). Rule 4553(e)(2) defines ''Derived Data'' as data that is derived from ATS Data and that is not able to be (A) reverse engineered by a reasonably skilled user into ATS Data or (B) used as a surrogate for ATS Data. Generally, non-commercial requests from regulators, academics, and ad hoc requests from media reporters are considered non-professional usage under this definition.

[15] *See* Rule 4553(d). FINRA also currently produces quarterly reports summarizing the ATS Data that are publicly available for no charge on FINRA's Web site.

[16] *See* Rule 4553(b). A ''Professional'' is defined as ''any non-natural person or any natural person that does not meet the definition of 'Non-Professional.' '' Rule 4553(e)(4).

[17] The downloadable reports provide the same data as the web-based reports but in pipe delimited format.

[18] If the Professional is a FINRA member, the member has access to the ATS Data so that all of the member's entitled users can access the ATS Data under the member's Central Registration Depository number. Professionals that are not FINRA members are provided with a single log-on that may be shared within the entity and its affiliates and employees, but may not be used outside of the entity, its affiliates, and their employees.

[19] *See* Rule 4553(c). A ''Vendor'' is defined as ''a Professional who distributes ATS Data or Derived Data to any third party.'' Rule 4553(e)(6).

[20] *See* ATS Fee Approval Order, *supra* note 9, 79 FR 32351, 32353.

[21] *See* Securities Exchange Act Release No. 71919 (April 9, 2014), 79 FR 21324, 21327 (April 15, 2014) (Notice of Filing File No. SR–FINRA–2014–018).

[22] There are no reports for time periods before the implementation of Rule 4552.

[23] Because the subscriptions purchased pursuant to Rule 4553 are on an annual basis, some subscribers' annual subscriptions will lapse before July 13, 2015. Those subscribers that choose to renew their annual subscription for the amount required under Rule 4553 before July 13, 2015, will receive a pro rata refund as of July 13, 2015. Current subscribers that have an annual subscription that expires after July 13, 2015, will also receive a pro rata refund. Thus, for example, if a firm purchased an annual Professional subscription for $12,000 on August 13, 2014, the firm will receive a $1,000

Continued

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[24] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and Section 15A(b)(5) of the Act,[25] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that, by eliminating the fees imposed by Rule 4553 and making the ATS Data available to the public at no cost, more data vendors and firms will use the ATS Data to provide useful statistics and analysis to the industry, individual investors, and the public. This, in turn, will further improve transparency in the over-the-counter market by making the ATS Data, and analysis of the data, more widely available not only for Professionals and Vendors, but also for individual investors who can benefit from more detailed analysis of the ATS Data.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that eliminating the fee may, in fact, remove potential burdens by widening access to the ATS Data, particularly for smaller firms that may not have been able to pay the existing Professional or Vendor fees.

Economic Impact Analysis

As described above, FINRA is proposing to remove Rule 4553 to eliminate the fee for all potential users of ATS Data and disseminate the ATS Data on its Web site at no charge. Currently, FINRA makes this data available on its Web site and charges according to the three tiers described above. In the presence of this proposed rule change, the ATS Data will continue to be made available, and FINRA will seek no fees for its usage. FINRA anticipates that the demand for the ATS Data will increase in the absence of professional and vendor fees.

FINRA believes that eliminating the fee for Professionals and Vendors to access ATS Data will extend the impact of transparency in the over-the-counter market and will not result in any burden on FINRA members or the public. Yet, investors may benefit from an externality if the wider availability of the ATS Data leads to an increased production of relevant analysis by professionals.[26] Also, FINRA believes—based on member firms' and vendors' feedback—that there is a wide range of market participants that will start using the ATS Data and benefit from it when it is made available free of charge.

FINRA would incur no additional costs as a result of the proposed rule change, as FINRA already aggregates and publishes the ATS Data on a weekly basis; however, FINRA will forego the revenue that partially covers the cost of maintaining the ATS Data, although both the cost and revenue have been non-material since the data dissemination started in June 2014. FINRA's experience in the past year suggests that the marginal costs to provide this information to the public is de minimis, with no material impact to its budget or members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments were not solicited regarding the elimination of Rule 4553, FINRA has received one comment letter since the adoption of Rule 4553 that addresses the current fee structure for access to ATS Data.[27] The Securities Industry and Financial Markets Association (''SIFMA'') submitted a written comment letter in response to *Regulatory Notice* 14–48 [28] that, among other things, noted that SIFMA ''continues to oppose FINRA charging a fee to access the [ATS] data and the fact that only a limited scope of information is available for free on the FINRA Web site.'' [29] A copy of *Regulatory Notice* 14–48 is attached as Exhibit 2a.[30] A copy of SIFMA's comment letter received in response to the *Regulatory Notice* is attached as Exhibit 2b.[31] FINRA believes the elimination of Rule 4553 would address the concern raised by SIFMA in its comment letter.

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 [32] and paragraph (f)(2) of Rule 19b–4 thereunder.[33] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–FINRA–2015–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

refund for the period between July 13, 2015, and August 13, 2015.

[24] 15 U.S.C. 78*o*–3(b)(6).

[25] 15 U.S.C. 78*o*–3(b)(5).

[26] For example, one study showed that brokers' order routing behavior, in search for best execution for their clients, changed after the increased transparency due to Rule 11Ac1–5, which requires market centers to publish standardized execution quality metrics. *See* Ekkehart Boehmer, Robert Jennings & Li Wei, *Public Disclosure and Private Decisions: Equity Market Execution Quality and Order Routing,* 20 (2) Rev. Fin. Stud. 315 (March 2007).

[27] FINRA notes that, although written comments were not solicited regarding the current proposed rule change to eliminate Rule 4553, comments addressing the adoption of a fee for access to ATS Data were received in response to the rule filings proposing Rules 4552 and 4553, and these commenters generally opposed the fee. *See* ATS Fee Approval Order, *supra* note 9, 79 FR 32351, 32352; *see also* Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Order Approving File No. SR–FINRA–2013–042).

[28] In *Regulatory Notice* 14–48, FINRA requested comment on a proposal to expand the ATS transparency initiative to publish the remaining equity volume executed over the counter, including trading on non-ATS electronic trading systems and internalized trades. *See Regulatory Notice* 14–48 (November 2014).

[29] Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Marcia E. Asquith, Corporate Secretary, FINRA, dated February 20, 2015.

[30] The Commission notes that the Regulatory Circular is not attached to this notice, but is available on FINRA's Web site.

[31] The Commission notes that SIFMA's comment letter is not attached to this notice, but is available on FINRA's Web site, and on the Commission's Web site.

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(x). [sic]

Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–023. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to makeavailable publicly. All submissions should refer to File Number SR–FINRA–2015–023, and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16860 Filed 7–9–15; 8:45 am]

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[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75367; File No. SR–C2–2015–017]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Correct an Inaccurate Rule Reference

July 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2015, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to correct an inaccurate rule reference in its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make an administrative change to correct an incorrect rule reference in its Fees Schedule. Specifically, the Exchange notes it recently streamlined part of its Fees Schedule by consolidating certain sections in order to make the Fees Schedule easier to read.[3] In doing so, the Exchange had to renumber Section 1C to current Section 1B. The Exchange notes however, that it inadvertently did not make a corresponding change to the text in current Section 1B. Specifically, Section 1B still references Section 1C in two places. The Exchange seeks to fix this error and insert the correct reference (*i.e.,* ''Section 1B''). No substantive changes are being made by the proposed rule change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes correcting an inaccurate rule reference will help to avoid confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. Additionally, the Exchange notes that no substantive changes are being made by the proposed rule change.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to correct an inaccurate rule reference and alleviate confusion is not intended for competitive reasons and only applies to C2. The Exchange also notes that no rights or obligations of Permit Holders are affected by the change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74733 (April 15, 2015), 80 FR 76 [sic] (April 21, 2015).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

of the Act [6] and paragraph (f) of Rule 19b–4 [7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2015–017 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–C2–2015–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2015–017, and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16862 Filed 7–9–15; 8:45 am]

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[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75360; File No. SR–BATS–2015–51]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.1(d)(9), (h) and (i) To Modify the Operation of BATS Post Only Orders on the Exchange's Options Platform

July 6, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it 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

The Exchange filed a proposal to amend Rules 21.1(d)(9), (h) and (i) to modify the operation of BATS Post Only Orders subject to the Price Adjust process on the Exchange's options platform (''BATS Options''). The proposed rule change is based on the operation of similar order types currently offered by the Nasdaq Stock Market LLC (''Nasdaq'') and Nasdaq OMX BX, Inc. (''BX'').[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rules 21.1(d)(9), (h) and (i) to modify the operation of BATS Post Only Orders that are subject to the Price Adjust process on BATS Options. The proposed rule change is based on the operation of similar order types currently offered by Nasdaq and BX.[6]

BATS Post Only Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another trading center. Currently, a BATS Post Only Order will not remove liquidity from the BATS Options Book [7] unless the value of price improvement associated with such execution equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* the description of Post-Only Orders under chapter VI, section 1(e)(11) of the Nasdaq Rules and chapter VI, section 1(e)(10) of the BX Rules. *See also* Securities Exchange Act Release No. 65761 (November 16, 2011), 76 FR 72230 (November 22, 2011) (SR–Nasdaq–2011–152) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a ''Post-Only'' Order Type). *See also* NYSE Arca, Inc. (''NYSE Arca'') Rule 6.62(y) for a description of PNP Plus orders.

[6] *See supra* note 5.

[7] ''BATS Options Book'' is defined as ''the electronic book of options orders maintained by the Trading System.'' *See* Exchange Rule 16.1(a)(9).

provided if the order posted to the BATS Options Book and subsequently provided liquidity. Unless otherwise instructed by the User,[8] a BATS Post Only Order will be subject to the Display-Price Sliding process set forth under Rule 21.1(h).

The Exchange proposes to amend the operation of BATS Post Only Orders such that they will not remove liquidity from the BATS Options Book where the User elects that the order be subject to the Price Adjust process set forth under Exchange Rule 21.1(i). Specifically, a BATS Post Only Order subject to the Price Adjust process will no longer remove liquidity from the BATS Options Book pursuant to Rule 21.1(d)(9) where the value of price improvement associated with such execution equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the BATS Options Book and subsequently provided liquidity. Under the Price Adjust process, a BATS Post Only order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will continue to be ranked and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers). As a result, the Exchange proposes to amend: (i) The description of BATS Post Only Orders under Rule 21.1(d)(9) to specify that the price improvement formula described above would only be applied to BATS Post Only Orders subject to the Display-Price Sliding process; (ii) the description of the Price Adjust process under Rule 21.1(i)(4) to no longer state that a BATS Post Only Order subject to the Price Adjust process would be executed as set forth in Rule 21.1(d)(9); and (iii) Rule 21.1(h) to clarify it is limited to BATS Post Only Orders subject to the Display-Price Sliding process.

The Exchange does not propose to amend the operation of BATS Post Only Orders subject to the Display-Price Sliding process. A BATS Post Only Order subject to the Display-Price Sliding process that locks or crosses a Protected Quotation displayed by the Exchange upon entry will either remove liquidity from the BATS Options Book pursuant to Rule 21.1(d)(9) or be cancelled. Should the order lock or cross a Protected Quotation displayed by an external market upon entry, it will be subject to the Display-Price Sliding process described in Rule 21.1(h). A BATS Post Only Order subject to the Display-Price Sliding process would continue to be cancelled where the NBBO changes such that the order would be ranked at a price at which it could remove displayed liquidity from the BATS Options Book.

The Exchange does, however, propose to amend the description of the Display-Price Sliding process under Rule 21.1(h)(4) to specify that a Partial Post Only at Limit Order that locks or crosses a Protected Quotation displayed by the Exchange upon entry will be executed subject to the price improvement formula set forth in Rule 21.1(d)(10) or cancelled when the order is subject to display-price sliding process. The Exchange does not propose to modify the operation of Partial Post Only at Limit Orders that are subject to the Display-Price Sliding Process.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[9] In particular, the proposal is consistent with section 6(b)(5) of the Act [10] because it is designed to encourage displayed liquidity and offer market participants greater flexibility to post liquidity on the BATS Options Book, thereby promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in facilitating transactions in securities, removing impediments to, and perfecting the mechanism of, a free and open market and a national market system. The Exchange notes that Users who wish for their BATS Post Only Orders to post to the BATS Options Book and forego the opportunity to remove liquidity upon entry under Rule 21.1(d)(9) would be required to affirmatively elect that the order be subject to the Price Adjust process. Absent such an election, a BATS Post Only Order would be subject to the Display-Price Sliding process and eligible to remove liquidity from the BATS Options Book pursuant to the price improvement formula set forth under Rule 21.1(d)(9). In addition, the proposed operation of BATS Post Only Order subject to the Price Adjust process is based on the operation of similar order types, called Post-Only Orders, currently offered by Nasdaq and BX.[11] There are no differences between the operation of Post-Only Orders offered by Nasdaq and BX and the proposed amendments to the operation of BATS Post Only Orders subject to the Price Adjust process proposed herein.

Lastly, the Exchange believes the proposed amendment to Rule 21.1(h)(4) specifying that it applies to Partial Post Only at Limit Orders that are subject to the Display-Price Sliding process also promotes just and equitable principles of trade, and perfects the mechanism of a free and open market and a national market system because it provides additional specificity to the rule and does not modify the operation of Partial Post Only at Limit Orders that are subject to the Display-Price Sliding Process.

(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. To the contrary, the proposed rule change is a competitive change that is based on the operation of similar order types currently offered by Nasdaq and BX.[12] The proposed rule change would, therefore, increase competition by enabling the Exchange to offer order type functionality that is identical to that offered by its competitors. For all the reasons stated above, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under section 19(b)(3)(A) of the Act [13] and paragraph (f)(6) of Rule 19b–4 thereunder.[14] The

[8] ''User'' is defined as ''any Options Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access).'' *See* Exchange Rule 16.1(a)(63).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra* note 5.

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4.

proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) 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; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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–BATS–2015–51 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–BATS–2015–51. 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–BATS–2015–51, and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16857 Filed 7–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75364; File No. SR–FINRA–2015–024]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 7650A Relating to Submission of Billing Disputes by FINRA/Nasdaq Trade Reporting Facility Participants

July 6, 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 July 1, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by 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 the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7650A (Collection of Fees) to require FINRA members that are FINRA/Nasdaq Trade Reporting Facility (''FINRA/Nasdaq TRF'') participants to submit billing disputes within sixty days of receipt of the invoice to the FINRA/Nasdaq TRF. The proposed rule change also would rename Rule 7650A as ''Collection of Fees and Billing Policy.''

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by The NASDAQ OMX Group, Inc. (''NASDAQ OMX''). In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and NASDAQ OMX entered into a limited liability company agreement (the ''LLC Agreement''). Under the LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the FINRA/Nasdaq TRF. NASDAQ OMX, the ''Business Member,'' is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. As such, the Business Member establishes pricing for use of the FINRA/

[15] 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).

Nasdaq TRF, and such pricing is implemented pursuant to FINRA rules that must be filed with the SEC and be consistent with the Act. In addition, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.

Pursuant to the FINRA Rule 7600A Series, FINRA members that are FINRA/Nasdaq TRF participants are charged fees (Rule 7620A) and also may qualify for credits for trade reporting to the FINRA/Nasdaq TRF (Rule 7610A). These rules are administered by NASDAQ OMX, in its capacity as the ''Business Member'' and operator of the FINRA/Nasdaq TRF on behalf of FINRA,[4] and NASDAQ OMX collects all fees on behalf of the FINRA/Nasdaq TRF.

On June 23, 2015, FINRA filed a proposed rule change to adopt Rule 7650A to require FINRA members that are FINRA/Nasdaq TRF participants to provide a clearing account number for an account at National Securities Clearing Corporation (''NSCC'') to the FINRA/Nasdaq TRF for purposes of permitting NASDAQ OMX, on behalf of the FINRA/Nasdaq TRF, to debit any undisputed or final fees due and owing under the FINRA Rule 7600A Series relating to the FINRA/Nasdaq TRF.[5]

FINRA is proposing to amend Rule 7650A to add a new paragraph (b) to require all billing disputes to be submitted to the FINRA/Nasdaq TRF in writing[6] and accompanied by supporting documentation within sixty days of receipt of an invoice. This process is expected to conserve resources, which are expended when untimely billing disputes require research of applicable fees and other information beyond two months after the invoice was issued. The proposed billing policy would apply only to fees due and owing by the member under the Rule 7600A Series. FINRA notes that the same policy with respect to billing disputes is in place today for NASDAQ Options Market (''NOM'') Participants[7] and has been proposed for NASDAQ equity participants relating to exchange fees and charges under Nasdaq Stock Market rules, effective July 1, 2015.[8] FINRA also is proposing to rename Rule 7650A as ''Collection of Fees and Billing Policy.''

FINRA has filed the proposed rule change for immediate effectiveness and requested waiver of the 30-day operative delay. FINRA proposes that the proposed rule change will become operative on July 1, 2015. The proposed billing policy would apply to invoices for trade reporting activity occurring in July 2015 and thereafter.[9]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Consistent with SR–NASDAQ–2015–050, the proposed requirement that billing disputes under the Rule 7600A Series be submitted to the FINRA/Nasdaq TRF within sixty days from receipt of the invoice would set an objective standard and would be fair and applied uniformly to all members that are FINRA/Nasdaq TRF participants. In addition, consistent with SR–NASDAQ–2015–050, sixty days is ample time for members to review an invoice and dispute any billing related to trade reporting activity for that time period. As noted above, an identical billing policy applies today with respect to NOM participants and has been proposed for NASDAQ equity participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As described above, and consistent with the LLC Agreement, the proposed billing policy is identical to the billing policy NASDAQ OMX currently has in place for NOM participants and is also identical to the billing policy proposed by Nasdaq for Nasdaq equity participants under Nasdaq Stock Market rules. As the Business Member, NASDAQ OMX has the obligation of assessing the potential impacts of the proposed billing policy in its own rulemaking. FINRA notes that Nasdaq's billing policy was subject to proposed rule changes filed by Nasdaq with the Commission.[11]

Consistent with SR–NASDAQ–2015–050, the proposed billing policy would apply uniformly to all members that are FINRA/Nasdaq TRF participants, as it does today with NOM participants and as proposed for Nasdaq equity participants. In addition, consistent with SR–NASDAQ–2015–050, the proposed billing policy would conserve FINRA/Nasdaq TRF resources, which are expended when untimely billing disputes require staff to research applicable fees and other information beyond two months after the invoice is issued.

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

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[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

FINRA has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change proposes a billing policy that is identical to the billing policy proposed by Nasdaq relating to fees under Nasdaq Stock Market rules pursuant to SR–NASDAQ–2015–050. The operative date

[4] FINRA's oversight of this function performed by the Business Member is conducted through a recurring assessment and review of TRF operations by an outside independent audit firm.

[5] *See* Securities Exchange Act Release No. 75339 (June 30, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR–FINRA–2015–021).

[6] The invoice specifies the contact person(s) to whom to address billing disputes.

[7] *See* NOM Rules at Chapter XV, Section 7, entitled ''NASDAQ Options Fee Disputes.''

[8] *See* Securities Exchange Act Release No. 74895 (May 7, 2015), 80 FR 27352 (May 13, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR–NASDAQ–2015–050).

[9] The proposed billing policy would not apply to invoices related to June 2015 (or prior) billing.

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] *See, e.g.,* Securities Exchange Act Release No. 74895 (May 7, 2015), 80 FR 27352 (May 13, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR–NASDAQ–2015–050).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

of proposed rule change SR–NASDAQ–2015–050 is July 1, 2015. FINRA believes, and the Commission agrees, that it would be more efficient to implement the billing policy under this proposed rule change on the same date as the billing policy under SR–NASDAQ–2015–050, rather than on a piecemeal basis. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. 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–FINRA–2015–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–024. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–024, and should be submitted on or before July 31, 2015

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16859 Filed 7–9–15; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Arrin Corporation, Gundaker/Jordan American Holdings (a/k/a Jordan American Holdings, Inc.), Liberty Petroleum Corporation, Mikojo Incorporated, Royal Invest International Corp., and San Joaquin Bancorp; Order of Suspension of Trading

July 8, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Arrin Corporation (CIK No. 1427433) (''ARRI'' [1]), a revoked Nevada corporation with its principal place of business in Bradenton, Florida, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link'') because it has not filed any periodic reports since the period ended March 31, 2011. On June 26, 2013, the Division of Corporation Finance (''Corporation Finance'') sent a delinquency letter to ARRI requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but ARRI did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gundaker/Jordan American Holdings, Inc. (a/k/a Jordan American Holdings, Inc.) (CIK No. 855663) (''JAHI''), a Florida corporation with its principal place of business in Excello, Missouri, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended September 30, 2005. On March 19, 2015, Corporation Finance sent a delinquency letter to JAHI requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but JAHI did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Liberty Petroleum Corporation (CIK No. 59270) (''LBPE''), a Delaware corporation with its principal place of business in New York, New York, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended June 30, 1987. On August 24, 2012, Corporation Finance sent a delinquency letter to LBPE requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but LBPE did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Mikojo Incorporated (CIK No. 1411085) (''MKJI''), a void Delaware corporation with its principal place of business in Foster City, California, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended March 31, 2011. On April 29, 2013, Corporation Finance sent a delinquency letter to MKJI requesting compliance with its periodic reporting

[1] The short form of each issuer's name is also its ticker symbol.

obligations at the address shown in its then-most recent filing with the Commission, but MKJI did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Royal Invest International Corp. (CIK No. 1079574) (''RIIC''), a void Delaware corporation with its principal place of business in Westport, Connecticut, with stock quoted on OTC Link because it has not filed any periodic reports since the period ended September 30, 2010. On June 26, 2013, Corporation Finance sent a delinquency letter to RIIC requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but RIIC did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of San Joaquin Bancorp (CIK No. 1368883) (''SJQU''), a suspended California corporation with its principal place of business in Bakersfield, California, with stock quoted on OTC Link because it has not filed any periodic reports since the period ended June 30, 2009. On June 26, 2013, Corporation Finance sent a delinquency letter to SJQU requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but SJQU did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on July 8, 2015, through 11:59 p.m. EDT on July 21, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–17014 Filed 7–8–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75359; File No. SR–CBOE–2015–045]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Rule 6.53C and Complex Orders on the Hybrid System

July 6, 2015.

On May 12, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 modify Rule 6.53C, Complex Orders on the Hybrid System, to give the Exchange the flexibility to distinguish between Professional and non-Professional orders for the purposes of determining eligibility for COA. The proposed rule change was published for comment in the **Federal Register** on May 27, 2015.[3] On June 3, 2015, CBOE filed Amendment No.1 to the proposed rule change.[4] The Commission received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is July 11, 2015.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1.

Accordingly, pursuant to Section 19(b)(2) of the Act [6] and for the reasons stated above, the Commission designates August 25, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16856 Filed 7–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75363; File No. SR–CTA–2015–02]

Consolidated Tape Association; Notice of Filing of the Twenty Third Substantive Amendment to the Second Restatement of the CTA Plan

July 6, 2015.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on June 19, 2015, certain participants (''Approving Participants'') [3] in the Second Restatement of the Consolidated Tape Association Plan (''CTA Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') a proposal to amend the Plan.[4] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75003 (May 20, 2015), 80 FR 30306.

[4] Amendment No. 1 to the proposed rule change amended the statutory basis and burden on competition sections of the Form 19b–4 and Exhibit 1 regarding distinguishing between Professional and non-Professional orders for purposes of determining eligibility for COA.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] More than two-thirds of the CTA Plan participants approved the amendment. The Approving Participants are: BATS Exchange, Inc., BATS–Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, National Stock Exchange, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., and the Nasdaq Stock Market LLC are also CTA Plan participants (''participants'').

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective). The most recent

Continued

amendment represents the 23rd Substantive Amendment (''Amendment'') to the CTA Plan.[5] The Amendment proposes to establish a fee that will be charged to a vendor or other data redistributor that fails to comply with the CTA Plan participants' Consolidated Volume display statement, and related requirements. The non-compliance charge seeks to provide incentives for data redistributors to comply with the participants' consolidated volume requirements.

The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Purpose of the Amendment

Historically, the Plan participants have not applied device fees to devices that receive consolidated volume (*i.e.,* aggregate volume for trades taking place on all market centers under the Plan) in displays that do not also include CTA Plan prices or CQ Plan quotation information. The participants do not plan to change this policy.

However, some data redistributors include consolidated volume in displays of unconsolidated last sale prices and/or unconsolidated bid-asked quotes, such as displays of one exchange's trade prices and quotes.

Such displays, whether displayed internally or externally, could mislead investors in respect of the nature of the information they are viewing. A significant number of data users receive proprietary trade prices and quotes. Unless the data users understand the content being displayed, they could mistakenly think that they are seeing consolidated trades and quotes because they see consolidated volume without any explanation.

To make the displays transparent and less likely to mislead, the Approving Participants have determined to require data redistributors that include consolidated volume in displays of unconsolidated prices and quotes to incorporate into those displays the following statement (or a close iteration of the statement that the network administrator(s) have approved): ''Realtime quote and/or trade prices are not sourced from all markets.''

A data redistributor must also assure that any person included in the redistribution chain starting with the data redistributor places the statement in any such display that it provides. The statement must be clearly visible to the end users so that they understand the differences in the data sources.

In addition, data redistributors need to assure that they, and any person or entity included in the redistribution chain starting with them, clearly incorporate the display statement into any advertisement, sales literature or other material displaying CTA Consolidated Volume alongside unconsolidated prices or quotes.

These requirements apply to both real-time and delayed displays of consolidated volume.

In order to ensure compliance with these requirements, the participants will require all recipients of the CTA last sale price datafeed (whether directly or indirectly) to submit a declaration. The participants will require those firms that include consolidated volume in displays of unconsolidated prices and quotes to submit to NYSE a screen print of the displays, showing the display statement. As this is a new requirement, the CTA Administrator will work with firms to facilitate their compliance.

A firm with access to CTA consolidated volume data must submit the declaration and, if applicable, the screen print within 120 days from the effective date of the amendment or within 30 days of the effective date of the firm's market data agreement with the participants that governs its receipt of the CTA datafeed (its ''Vendor Agreement''). Thereafter, each firm must submit its declaration and, if applicable, its screen print annually by the 31st day of each January. The declaration and screen print (if applicable) must be submitted to *mdteam@nyx.com.*

The Approving Participants' representatives met with SIFMA and the CTA Plan's Advisory Committee to discuss the consolidated volume requirements and responded to their questions. The Approving Participants shortened the display statement in response to comments and made clear that a datafeed recipient is free to provide an exchange's trading volume with displays of the exchanges trade prices and quotes, without the need to include a display requirement.

In order to motivate data recipients to comply with the display statement requirements, including the requisite declarations and screen submissions, the Approving Participants have determined to establish a non-compliance fee for each month of non-compliance. For each of Network A and Network B, the monthly fee is $3,000.

A datafeed recipient must submit the required screen prints by July 9, 2015[6] or within thirty days of the effective date of its Vendor Agreement. It must submit those screen prints (including previously provided, new, or changed screen prints) annually by the 31st day of each January thereafter.

The non-compliance charges will be assessed against a data redistributor for each month in which it fails to provide the declaration or a copy of a Consolidated Volume screen print with the required display statement in a timely manner. The charge will also be assessed against a data redistributor each month for non-compliance by persons in the redistribution chain starting with the data redistributor where such persons have not entered into an applicable agreement with CTA.

The non-compliance charges seek to provide incentives for data redistributors to comply with the consolidated volume requirements. The Approving Participants do not view the non-compliance fee as establishing a new revenue source. Rather, they hope it encourages all data redistributors to submit their declarations and screen prints (where applicable) in a timely fashion. They hope that the fee will motivate non-compliant redistributors to adopt the same practices that the majority of redistributors follow.

The inclusion of delayed displays of consolidated volume in the consolidated volume requirements seeks to add clarity where a data redistributor accompanies displays of real-time unconsolidated prices and quotes with delayed consolidated volume. The Approving Participants seek to prevent that data redistributor from misleading investors while escaping the consolidated display requirements.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendment

Approving Participants have manifested their approval of the

restatement of the Plan was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] The Amendment was originally submitted on an immediately effective basis pursuant to Rule 608(b)(3)(i) under Regulation NMS. *See* Letter from Emily Kasparov, Chairman, CTA Plan Operating Committee to Brent J. Fields, Secretary, Commission, dated May 18, 2015. On June 19, 2015, the Approving Participants filed a letter to indicate the proposal should be considered under Rule 608(b)(1) and Rule 608(b)(2) of Regulation NMS. As a result, the Amendment must be approved by the Commission. *See* Letter from Emily Kasparov, Chairman, CTA Plan Operating Committee to Brent J. Fields, Secretary, Commission, dated June 17, 2015. The Amendment was designated as the Twenty Second Charges Amendment to the Plan. The Commission notes that the proposal is the Twenty Third Substantive Amendment to the Plan.

[6] The Commission notes that the Amendment shall not become effective prior to Commission approval. *See id.*

proposed Amendment by means of their execution of the Amendment. The Plan Amendment would become operational upon approval by the Commission.[7]

D. Development and Implementation Phases

The Approving Participants anticipate commencing to apply the compliance fee on data redistributors that fail to submit declarations or required screen prints by [DATE] [sic]. The Approving Participants will give notice of the compliance fee to all data redistributors no less than 120 days prior to its implementation.

E. Analysis of Impact on Competition

The amendment will impose no burden on competition.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The participants have no written understandings or agreements between or among them relating to interpretation of the CTA Plan as a result of the amendment.

G. Approval by Sponsors in Accordance With Plan

Section XII (b)(iii) of the CTA Plan provides that ''[a]ny addition of any charge to . . . the charges set forth in Exhibit E . . . shall be effected by an amendment to this CTA Plan . . . that is approved by affirmative vote of not less than two-thirds of all of the then voting members of CTA. Any such amendment shall be executed on behalf of each Participant that appointed a voting member of CTA who approves such amendment and shall be filed with the SEC.''

The Approving Participants have executed this Amendment and represent not less than two-thirds of all of the parties to the Plan. That satisfies the Plan's participant-approval requirements.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

The Approving Participants believe that the proposed compliance fee is fair and reasonable and provides for an equitable allocation of dues, fees, and other charges among vendors, data recipients and other persons using CTA Network A facilities. They intend that it will provide incentives for compliance with consolidated volume requirements. The charge will be applied uniformly to vendors, data recipients and other persons that fail to comply.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Equity Securities for Which Transaction Reports Shall Be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks general comments on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment are 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–CTA–2015–02 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–CTA–2015–02. 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 Amendment that are filed with the Commission, and all written communications relating to the Amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the Amendment also will be available for inspection and copying at the principal office of the CTA. 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–CTA–2015–02 and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16837 Filed 7–9–15; 8:45 am]

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[7] *See supra* note 5.

[8] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75361; File No. SR–MIAX–2015–44]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC To Amend Exchange Rule 612 Regarding Enhanced Aggregate Risk Manager Protections for Exchange Market Makers

July 6, 2015.

Pursuant to the provisions of 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 June 26, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 612 to provide Enhanced Aggregate Risk Manager Protections for Exchange Market Makers.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX'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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 612, Aggregate Risk Manager (''ARM'') to provide optional enhanced risk protections for Exchange Market Makers.[3] Currently, ARM protects Market Makers by limiting the number of contracts they execute in an option class on the Exchange within a specified time period that has been established by the Market Maker (a ''specified time period''), which may have a duration of up to 15 seconds. MIAX Market Makers establish a percentage of their quotations (the ''Allowable Engagement Percentage'') and the specified time period for each option class in which they are appointed.[4] When an execution against a Market Maker's Standard quote[5] or Day eQuote (as defined below) occurs, the MIAX System[6] looks back over the specified time period to determine whether the execution is of sufficient size to trigger the Aggregate Risk Manager. The System engages the Aggregate Risk Manager when it has determined that a Market Maker has traded a number of contracts equal to or above their Allowable Engagement Percentage during the specified time period. The Aggregate Risk Manager then automatically cancels and removes the Market Maker's Standard quotes and Day eQuotes from the Exchange's disseminated quotation in all series of that particular option class until the Market Maker sends a notification to the System of the intent to reengage quoting and submits a new revised quotation in the affected class.

The Exchange proposes to add new, optional enhanced functionality to the ARM by adopting new Interpretations and Policies .02 to Rule 612, entitled Enhanced Aggregate Risk Manager Protections. The proposed rule would address circumstances where a Market Maker experiences multiple, successive triggers of the Aggregate Risk Manager. The Enhanced ARM Protections would be triggered when the Allowable Engagement Percentage has been equaled or exceeded a specified number of times (not less than three times and not greater than 99 times) within a specified time period (not less than one second and not greater than 24,300 seconds) (each as determined by the Market Maker). For purposes of the Enhanced ARM Protections, the specified time period will be called the ''ARM trigger counting period'' in the rule.[7] Market Makers may determine not to engage the Enhanced ARM Protections or may determine to engage either or both of two proposed Enhanced ARM Protections in the System: the Class Protection feature and the Market Maker Protection feature, each described more fully below.

The Enhanced ARM Protections may be engaged simultaneously and will operate independently of one another. The ARM trigger counting period may be set differently for each Enhanced ARM Protection when they are engaged simultaneously. The determination not to engage the Enhanced ARM Protections does not require any action on the part of Market Makers.

eQuotes

Current Interpretations and Policies .01 to Rule 612 states that eQuotes[8] do not participate in the Aggregate Risk Manager. The Exchange proposes to amend Interpretations and Policies .01 to clarify that one type of eQuote, the

[3] The term ''Market Makers'' refers to ''Lead Market Makers,'' ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. A Lead Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in chapter VI of these Rules with respect to Lead Market Makers. A Primary Lead Market Maker is a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. A Registered Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker. *See* Exchange Rule 100.

[4] The Exchange's Board or designated committee appoints one Primary Lead Market Maker and other Market Makers to each options class traded on the Exchange. For a complete description of the Exchange's appointment process, *see* Exchange Rule 602.

[5] A Standard quote is a quote submitted by a Market Maker that cancels and replaces the Market Maker's previous Standard quote, if any. *See* Exchange Rule 517(a)(1).

[6] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[7] Respecting the proposed Enhanced ARM Protections, the Exchange proposes to adopt the term ''ARM trigger counting period'' in order to distinguish it from the ''specified time period'' defined in current Rule 612(a). The term ''specified time period'' describes the time period within which the System counts the number of executed contracts to determine whether the Allowable Engagement Percentage has been equaled or exceeded; the term ''ARM trigger counting period'' describes the time period within which the System counts the number of times the Allowable Engagement Percentage is equaled or exceeded.

[8] An eQuote is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote. *See* Exchange Rule 517(a)(2).

Day eQuote,[9] participates in the ARM. The System does not include contracts traded through the use of an eQuote that is not a Day eQuote in the counting program for purposes of this Rule. eQuotes will remain in the System available for trading when the Aggregate Risk Manager is engaged. Day eQuotes participate in the Aggregate Risk Manager and will be included in the Enhanced ARM Protections. Day eQuotes are the only type of eQuote with a time in force (up to an entire trading session if not executed) that can last longer than an extremely brief time period, and thus are included in the current ARM counting period and will be included in the ARM trigger counting period.

All other eQuotes (Auction or Cancel,[10] Opening Only,[11] Immediate or Cancel,[12] Fill or Kill,[13] and Intermarket Sweep [14] eQuotes) are not included in ARM and will not be included in the Enhanced ARM Protections. These types of eQuotes have a very short time in force and thus are present in the Exchange's disseminated quotation for an extremely brief time period before they are cancelled automatically if not executed. A Market Maker that submits an eQuote other than a Day eQuote expects and intends that such eQuote will be executed or cancelled without the need for ARM protection. Therefore eQuotes that are not Day eQuotes are not included in the ARM counting system.

Class Protection Feature

Proposed Interpretations and Policies .02(a) would provide that a Market Maker may determine to engage the Class Protection feature for a particular option class in which the Market Maker is appointed (an ''appointed option class''). When the Allowable Engagement Percentage in such appointed option class has been equaled or exceeded a specified number of times within the ARM trigger counting period, the Class Protection feature will remove the Market Maker's quotations from the Exchange's disseminated quotation in such appointed option class until the Market Maker instructs the Exchange (in a manner required by the Exchange and communicated to Members by Regulatory Circular) to reset the Class Protection feature. Additional quotations from the Market Maker in the affected class are not accepted until the Class Protection feature is reset.

The Class Protection feature is distinguished from the regular function of ARM because the ARM trigger counting period, during which the System counts the number of times ARM is triggered for the affected option class, usually would be longer than the ''specified time period'' described in Rule 612(a), during which the ARM counts executed contracts. The Class Protection feature is intended to alert Market Makers that there may be ongoing volatile or otherwise unusual market conditions that necessitate specific evaluation of their ARM settings, and of the conditions that result in the number of ARM triggers that occurred during the ARM trigger counting period.

The Class Protection feature removes quotes from the Exchange's disseminated quotation until the Market Maker instructs the Exchange (in a manner required by the Exchange and communicated to Members by Regulatory Circular) to reset the Class Protection feature.[15] This non-automated instruction requires the Exchange to reset the Enhanced ARM Protection feature, as opposed to the method of resetting the standard ARM feature, where the Market Maker resets the ARM by sending a notification to the System of the intent to reengage quoting and submits a new revised quotation in the affected class. The purpose of the non-automated method of re-engaging the Class Protection feature is to give Market Makers the ability to reconsider, reset and confirm their Enhanced ARM Protection settings during times of peak or unusual market activity, rather than an automated re-engagement. The Exchange believes that this non-automated contact will strengthen the efficiency of the Enhanced ARM Protections by providing Market Makers with the ability to thoroughly assess current market conditions in setting risk management levels and controls.

Market Maker Protection Feature

The System will aggregate the specified number of times that the Allowable Engagement percentage has been equaled or exceeded in the Market Maker's specified number of unique appointed option classes within the ARM trigger counting period for an entire Market Maker organization. The Market Maker Protection feature will remove the Market Maker organization's quotations in all of the Market Maker organization's appointed option classes when the Allowable Engagement Percentage has been equaled or exceeded in the Market Maker organization's specified number of appointed option classes within the ARM trigger counting period, regardless of how many individual Market Makers in the same Market Maker organization are submitting quotations on MIAX. As with the Class Protection feature, and for the reasons described above, such quotes will be removed until the Market Maker instructs the Exchange (in a manner required by the Exchange and communicated to Members by Regulatory Circular) to reset the Market Maker Protection feature. Additional quotations from the Market Maker are not accepted until the Market Maker Protection feature is reset. One representative from a Market Maker organization may instruct the Exchange to reset the Market Maker Protection feature on behalf of his or her Market Maker organization.

Examples

Market Maker organization ''Red, Inc.'' has three individual Market Makers (''MMs'') properly registered on MIAX. Red, Inc. MM 1 is appointed in option classes A, B and C. Red, Inc. MM2 is appointed in option classes D, E, F, and G. Red, Inc. MM3 is appointed in option classes H and I. Assume Red, Inc. determines that the Market Maker Protection feature will be engaged when the Allowable Engagement Percentage is equaled or exceeded three times (as described below) within their designated ARM trigger counting period.

If within the ARM trigger counting period the Allowable Engagement Percentage is equaled or exceeded in option classes A, B, and C, the Market Maker Protection feature will remove Red Inc.'s quotations in all of its appointed option classes, (classes A through I), even though the only individual Market Maker affected is MM1, who is appointed in the three affected option classes.

If within the ARM trigger counting period the Allowable Engagement

[9] A Day eQuote is a quote submitted by a Market Maker that does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. Day eQuotes will expire at the close of trading each trading day. The Exchange reserves the right to limit the number of Day eQuotes that a single Market Maker may place on the same side of an individual option. The same limit will apply to all types of Market Makers. If the Exchange determines to establish a limit, it will be no more than ten Day eQuotes on the same side of an individual option. The Exchange will publish the limit through the issuance of a Regulatory Circular. *See* Exchange Rule 517(a)(2)(i).

[10] *See* Exchange Rule 517(a)(2)(ii).

[11] *See* Exchange Rule 517(a)(2)(iii).

[12] *See* Exchange Rule 517(a)(2)(iv).

[13] *See* Exchange Rule 517(a)(2)(v).

[14] See Exchange Rule 517(a)(2)(vi).

[15] Any communication regarding the Enhanced ARM Protections must be in writing from the Market Maker or Market Maker organization via email or other electronic means to be described in the Regulatory Circular.

Percentage is equaled or exceeded in option classes A, D, and H, the Market Maker Protection feature will remove Red Inc.'s quotations in all of its appointed option classes, (classes A through I), because the Allowable Engagement Percentage in three of Red, Inc.'s appointed option classes has been equaled or exceeded, regardless of the fact that the three affected appointed option classes are not appointed to the same individual Red, Inc. Market Maker.

In the event that the Allowable Engagement Percentage in one appointed option class is equaled or exceeded multiple times during the ARM trigger counting period, the System will consider such multiple events to be one single trigger for purposes of the activation of the Market Maker Protection feature. For example, if during the ARM trigger counting period there is one trigger in option class A, and there are five triggers in option class D, the System will calculate one trigger for option class A and just one trigger for option class D. Accordingly, the System will consider only two triggers to have occurred in Red, Inc.'s appointed option classes (one trigger in option class A, and one in option class D) during the ARM trigger counting period. In this example, the Market Maker Protection feature will not be engaged because Red, Inc. has determined that there must be three triggers during the ARM trigger counting period before the Market Maker Protection feature is to be activated. The purpose of this provision is to ensure that unusual activity or volatility in one particular appointed option class does not unnecessarily prompt the Market Maker Protection feature to remove a Market Maker or Market Maker organization's quotations from the Exchange's disseminated quotation in all of their other unaffected appointed option classes. In such a situation, the normal ARM functionality described in Exchange Rule 612 (or the Class Protection feature [16]) is in place to remove such quotations in the single affected appointed option class.

The Exchange believes that the instant proposal should further assist Exchange Market Makers in managing their risk by establishing and making available additional risk management tools in the System. The Enhanced ARM Protection features will enable Exchange Market Makers to target a specific appointed option class, or all of its appointed option classes, for enhanced risk management and protection. This should assist Exchange Market Makers in targeting appointed option classes that could become extremely volatile under certain market conditions or when market events, news or other factors affect a Market Maker's ability to manage risk. The Enhanced ARM Protections are intended to address both foreseeable and unforeseeable market conditions in general, and can be tailored to meet the risk management needs of Exchange Market Makers and Market Maker organizations.

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule. The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with section 6(b) of the Act [17] in general, and furthers the objectives of section 6(b)(5) of the Act [18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that Members will benefit from the proposed Enhanced Aggregate Risk Manager Protections. Market Makers, who are obligated to submit continuous two-sided quotations in a certain number of series in their appointed option classes for a certain percentage of each trading session,[19] are vulnerable to risk from unusual market conditions, volatility in specific option classes, and other market events that may cause them to receive multiple, extremely rapid automatic executions before they can adjust their quotations and overall risk exposure in the market.

Without adequate risk management tools in place on the Exchange, such as the existing ARM and the proposed Enhanced ARM Protections, the incentive for Exchange Market Makers to quote aggressively respecting both price and size could be diminished, and could result in a concomitant reduction in the depth and liquidity they provide to the market. Such a result may undermine the quality of the markets that would otherwise be available to customers and other market participants. Accordingly, the Exchange proposes the Enhanced ARM Protections to help Market Makers better manage their risk exposure and thus encourage Market Makers to provide additional depth and liquidity to the Exchange's markets, thereby removing impediments to and perfecting the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest.

In addition, the Enhanced ARM Protections promote just and equitable principles of trade by providing Exchange Market Makers with more risk management mechanisms available on the Exchange to give them confidence that protections are in place to reduce the risks associated with their Market Making obligations. The Exchange notes that the implementation and use of the Enhanced ARM Protections will not relieve Exchange Market Makers of their continuous quoting obligations under Exchange Rule 604 and under Reg NMS Rule 602.[20] All of a Market Maker's quotes in each option class will be considered firm until such time as the Allowable Engagement Percentage threshold has been equaled or crossed and the Market Maker's quotes are removed by the Aggregate Risk Manager in all series of that option class.[21]

Finally, the proposed Enhanced ARM Protections are designed to protect investors and the public interest by helping Market Makers prevent executions resulting from activity that exceeds their risk tolerance level under these rules as established by the Exchange.

With regard to the impact of this proposal on system capacity, the Exchange notes that it has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with the proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[16] A Market Maker could elect to engage the Class Protection feature for a single option class. That feature is designed to provide an additional alert to Market Makers of an unusual number of ARM triggers in the affected assigned option class.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] For a complete description of MIAX Market Maker quoting obligations, *see* Exchange Rule 604.

[20] 17 CFR 242.602.

[21] *See* Exchange Rule 612(c).

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

On the contrary, the Exchange believes that the proposed Enhanced ARM Protections will foster competition by providing Exchange Market Makers with an additional set of tools to use in submitting quotations with the best possible price and size in order to compete for executions and order flow. The Exchange believes the proposed Enhanced ARM Protections will not impose any burden on intra-market competition because its use is voluntary and is available to all Exchange Market Makers and Market Maker organizations.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. As to inter-market competition, the Exchange believes that the proposed Enhanced ARM Protections should promote competition because they are designed to protect Exchange Market Makers from unusual market conditions or events that may cause them to receive multiple, automatic executions before they can adjust their quotation exposure in the market.

For all the reasons stated, 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, and believes the proposed change will in fact enhance competition.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [22] and Rule 19b–4(f)(6) [23] thereunder.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–MIAX–2015–44 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–MIAX–2015–44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–44 and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16858 Filed 7–9–15; 08:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75366; File No. SR–NASDAQ–2015–067]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fees Assessed Under Rules 7015(b) and (g)

July 6, 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 June 25, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' 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 revert recently-increased fees assessed under Rules 7015(b) and (g) to their levels prior to the fee increase and to retroactively apply the lower fees in light of delays in implementing hardware upgrades.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

On April 22, 2015, NASDAQ filed a rule change that increased the port fees assessed members and non-members for ports used to enter orders into NASDAQ systems, in connection with the use of FIX and OUCH trading telecommunication protocols.[3] The Exchange noted that the increased fees would allow it to recoup costs arising from upgrades it was making to the hardware supporting the ports to Field Programmable Gate Array (''FPGA'') technology.[4] Specifically, the Exchange increased the fee assessed under Rule 7015(b) for a FIX Trading Port from $550 per port, per month, to $575 per port, per month. The Exchange also increased the fee assessed under Rule 7015(g) for an OUCH Port from $550 per port pair, per month to $575 per port pair, per month.

The Exchange had anticipated purchasing and installing FPGA hardware by May 2015, however, NASDAQ encountered an unanticipated delay in implementation. As a consequence, the Exchange was unable to implement the upgraded hardware in May; however, the increased fees assessed to recoup costs arising from the upgrade remain in place. NASDAQ does not believe that it is appropriate to assess the increased fees under Rules 7015(b) and (g) in the absence of the FPGA hardware upgrade, which, as noted, was the basis for increasing the fees.[5] Accordingly, NASDAQ is proposing to revert the fees assessed under Rules 7015(b) and (g) to their reduced levels prior to the fee increase, and retroactively apply the lower fees for the months of April, May and June 2015. Once NASDAQ is prepared to implement the FPGA hardware upgrade, it will file a separate rule change proposal with the Commission to adjust the fees.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[6] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that reverting the fees assessed for FIX and OUCH ports under Rules 7015(b) and (g), respectively, back to their prior levels and retroactively applying those lower fees is reasonable because NASDAQ has not provided the upgraded hardware to date, the cost of which was the basis for increasing the fees under Rules 7015(b) and (g). In addition, applying the lower fees will allow NASDAQ to keep the fee increase in line with its realized capital and operating expenditures, which have not increased as a result of the delayed implementation of the upgrade. The Exchange believes that the proposed reduction of the fees to their prior levels and retroactive application thereof is both equitably allocated and not unfairly discriminatory because it will apply uniformly to all market participants that subscribe to FIX and OUCH ports based on the number of such ports subscribed. Accordingly, such market participants will be assessed the fees in place prior to the increase and will continue to have the same hardware supported by those fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition. Specifically, the Exchange is reverting fees to their prior, lower levels and applying them retroactively in light of delays in implementing upgrades to NASDAQ systems, the cost of which was the basis for fee increase. Reverting the fees to their lower levels will keep the fees assessed in line with the Exchange's expenditures at this juncture associated with upgrading to FPGA hardware. As such, the Exchange does not believe the proposed change will have any impact on competition, as market participants will be assessed the same fee for their FIX and OUCH ports with the same hardware that was in place prior to the fee increase.

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)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the

[3] *See* Securities Exchange Act Release No. 74829 (April 29, 2015), 80 FR 25745 (May 5, 2015) (SR–NASDAQ–2015–042).

[4] *Id.*

[5] *Id.*

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6)

[10] 17 CFR 240.19b–4(f)(6)(iii).

protection of investors and the public interest. Such waiver will allow the Exchange to immediately return the fees to the lower levels that existed before SR–NASDAQ–2015–042 and retroactively apply the lower fees so that market participants will not experience a fee increase in the absence of the FPGA hardware upgrade, the cost of which was the basis for the fee increase. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[11]

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–2015–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–067. 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–NASDAQ–2015–067, and should be submitted on or before July 31, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16861 Filed 7–9–15; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respect to Goods and Services of Montenegro

AGENCY: Office of the United States Trade Representative.

ACTION: Determination Regarding Waiver of Discriminatory Purchasing Requirements under the Trade Agreements Act of 1979.

DATES: *Effective Date:* July 15, 2015.

FOR FURTHER INFORMATION CONTACT: Scott Pietan, Director of International Procurement Policy, Office of the United States Trade Representative, (202) 395–9646.

SUPPLEMENTARY INFORMATION: On October 29, 2014, the WTO Committee on Government Procurement approved the accession of Montenegro to the World Trade Organization (''WTO'') Agreement on Government Procurement (''GPA''). Montenegro submitted its instrument of accession to the Secretary-General of the WTO on June 15, 2015. The GPA will enter into force for Montenegro on July 15, 2015. The United States, which is also a party to the GPA, has agreed to waive discriminatory purchasing requirements for eligible products and suppliers of Montenegro beginning on July 15, 2015.

Section 1–201 of Executive Order 12260 of December 31, 1980 delegated the functions of the President under sections 301 and 302 of the Trade Agreements Act of 1979 (''the Trade Agreements Act'') (19 U.S.C. 2511, 2512) to the United States Trade Representative.

Determination: In conformity with sections 301 and 302 of the Trade Agreements Act, and in order to carry out U.S. obligations under the GPA, I hereby determine that:

1. Montenegro has become a party to the GPA and will provide appropriate reciprocal competitive government procurement opportunities to United States products and services and suppliers of such products and services. In accordance with section 301(b)(1) of the Trade Agreements Act, Montenegro is so designated for purposes of section 301(a) of the Trade Agreements Act.

2. Accordingly, beginning on July 15, 2015, with respect to eligible products (namely, those goods and services covered under the GPA for procurement by the United States) of Montenegro and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(A) To United States products and suppliers of such products, or

(B) To eligible products of another foreign country or instrumentality which is a party to the GPA and suppliers of such products, shall be waived. This waiver shall be applied by all entities listed in United States Annexes 1 and 3 of GPA Appendix 1.

3. The Trade Representative may modify or withdraw the designation in paragraph 1 and the waiver in paragraph 2.

Michael B.G. Froman,

United States Trade Representative.

[FR Doc. 2015–16955 Filed 7–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty-Third Meeting: Special Committee 214 (SC 214)

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

ACTION: Twenty-Third Meeting Notice of Special Committee 214.

SUMMARY: The FAA is issuing this notice to advise the public of the twenty-third meeting of the Special Committee 214.

DATES: The meeting will be held August 31st–September 4th from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* (202) 330–0663.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Special Committee 214. The agenda will include the following:

Monday, August 31, 2015

1. Welcome/Introduction/ Administrative Remarks
2. Approval of the Agenda of Plenary 23 and Minutes of Plenary 22
3. Coordination Activities with ICAO OPLINK
4. Status of B2 Rev A Standards, discussions on outstanding issues
5. Progress status of VDL2 standards
6. Review of Position Papers and Contributions
7. Approval of Sub-Group Meeting Objectives

Tuesday, September 1, 2015

1. Sub-Group Sessions

Wednesday, September 2, 2015

1. Sub-Group Sessions

Thursday, September 3, 2015

1. Sub-Group Report & Assignment of Action Items
2. RTCA FRAC and EUROCAE Open Consultation process overview
3. Agree action plan to close last outstanding comments
4. Confirm target date for publication of v1.D (version for FRAC/Open Consultation)
5. Establish and communicate schedule for FRAC/Open Consultation
6. Approval of Rev A of Baseline 2 documents for FRAC/Open Consultation
7. Approve dates and location of next Plenary Meeting—FRAC/Open Consultation Resolution
8. Any Other Business
9. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 7, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16956 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2015–45]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before July 30, 2015.

ADDRESSES: You may send comments identified by docket number FAA–2015–0469 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Deana Stedman, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *deana.stedman@faa.gov,* phone (425) 227–2148; or Sandra Long, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 6, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–0469.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: § 25.345(c).

Description of Relief Sought: The United States Air Force requires that the KC–46A be capable of refueling all aircraft that may currently be refueling using KC–135 and/or KC–10A tankers. Some of these receiver aircraft refuel at low speeds that would require prolonged flight with high lift devices

deployed during aerial refueling operations. Application of 14 CFR 25.345(c) would drive increased maneuver and gust loads resulting in impractical redesign of the wing structure. The airplane design provides adequate structural capability for aerial operations with high lift devices deployed due to the limited maneuvering and the low frequency of occurrence. The petitioner requests an exemption from 14 CFR 25.345(c).

[FR Doc. 2015–16866 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting: Special Committee 231 (SC 231)

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

ACTION: Sixth Meeting Notice of Special Committee 231.

SUMMARY: The FAA is issuing this notice to advise the public of the sixth meeting of the Special Committee 231.

DATES: The meeting will be held September 22nd–September 24th from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* (202) 330–0663.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Special Committee 231. The agenda will include the following:

Tuesday, September 22, 2015

1. Welcome/Introduction
2. Administrative Remarks
3. Agenda Review
4. Summary of Working Group activities
5. Other Business
6. Date and Place of Next Meeting

Wednesday, September 23, 2015

1. Continuation of Plenary or Working Group Session

Thursday, September 24, 2015

1. Continuation of Plenary or Working Group Session

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 7, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16961 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on US 69/Loop 49 North Lindale Reliever Route, Smith County, Texas

AGENCY: Federal Highway Administration (FHWA), U.S. DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by TxDOT and Federal Agencies.

SUMMARY: This notice announces actions taken by Texas Department of Transportation (TxDOT) and Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, US 69/Loop 49 North Lindale Reliever Route, Smith County, Texas. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 7, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Carlos Swonke, P.G., Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov.* TxDOT normal business hours are 8:00 a.m. to 5:00 p.m. (central time) Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: US 69/Loop 49 North Lindale Reliever Route, Smith County, Texas. The project will construct a new location, full control of access reliever route around the city of Lindale in Smith County, Texas, referred to as U.S. Highway (US) 69/Loop 49 North Lindale Reliever Route (Lindale Reliever Route). The proposed action is intended to provide relief to the existing US 69 through the city of Lindale and extend a proposed toll facility (Loop 49 West) from Interstate Highway (IH) 20 southwest of Lindale to US 69 north of Lindale, a distance of approximately seven miles.

The actions by TxDOT and the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on February 10, 2015, in the Record of Decision (ROD) issued on April 24, 2015, and in other documents in the TxDOT administrative record. The FEIS, ROD, and other documents in the administrative record file are available by contacting TxDOT at the address provided above. The FEIS and ROD can be viewed on the project Web site at *http://www.txdot.gov/inside-txdot/projects/studies/tyler/us69-loop49.html.* This notice applies to all TxDOT decisions and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland

Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13287, Preserve America; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 11514, Protection and Enhancement of Environmental Quality; E.O. 13112, Invasive Species; E.O. 12372, Intergovernmental Review of Federal Programs.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 22, 2015.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2015–16182 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0109; Notice 2]

RECARO Child Safety, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: RECARO Child Safety, LLC (Recaro) determined that certain Recaro child restraints do not fully comply with the system integrity requirements of paragraph S5.1.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems.* Recaro filed an appropriate report, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* that was received by NHTSA on July 30, 2014. Recaro also submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis of the petitioner's belief that this noncompliance is inconsequential to motor vehicle safety. NHTSA published a notice of receipt of the petition and requested comment on the petition. After consideration of Recaro's analysis and other information, NHTSA has decided to deny the petition.

ADDRESSES: For further information on this decision contact Zachary Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5754, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION: I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Recaro submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis of the petitioner's belief that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on November 21, 2014 in the **Federal Register** (79 FR 69551). Comments were received, from an individual, Sean Stewart, and from Advocates for Highway and Auto Safety (Advocates). Both commenters opposed the petition. Mr. Stewart believes that child restraint manufacturers should be required to meet the applicable requirements in FMVSS No. 213 regardless of the manufacturer's instructions and warnings. Advocates believes that ''the reasons provided by RECARO fail to justify determining that the non-compliance is inconsequential.'' To view the petition, the comments, and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Follow the online search instructions to locate docket number ''NHTSA–2014–0109.''

II. Child Restraints Involved: Affected are approximately 78,339 Recaro ProRIDE child restraints manufactured between April 9, 2010 and July 8, 2014, and approximately 42,303 Recaro Performance RIDE child restraints manufactured between January 15, 2013 and July 8, 2014.

III. Noncompliance: Recaro explains that the subject child restraints do not comply with the system integrity requirements of FMVSS No. 213, paragraph S5.1.1(a), when subjected to the dynamic test requirements of FMVSS No. 213 S6.1. During NHTSA's compliance tests with the Hybrid II six-year-old child dummy and the Hybrid III weighted six-year-old child dummy connected to the child restraints with the internal harness and the child restraints attached to the test bench with a lap belt and top tether, the tether belt separated at the attachment point to the child restraints. The top tether belt separation exhibited a complete separation of a load bearing structural element. Therefore, the child restraints do not comply with the requirements set forth in FMVSS No. 213 S5.1.1(a).[1]

IV. Rule Text: Paragraph S5.1.1 of FMVSS No. 213 requires, in pertinent part:

> S5.1.1 Child restraint system integrity. When tested in accordance with S6.1, each child restraint system shall meet the requirements of paragraphs (a) through (c) of this section.
>
> (a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 1/4 inch or surfaces with protrusions greater than 3/8 inch above the immediate adjacent surrounding contactable surface of any structural element of the system.
>
> * * * * *

Under S6.1 of FMVSS No. 213, NHTSA tests child restraints with a child test dummy selected for use in accordance with the provisions of S7 of the standard. Under S7, the selection is based on the heights and weights of the children for whom the child restraint is sold. Under S7.1.2(d), NHTSA uses the Hybrid II (HII) or Hybrid III (HIII) six-year-old child test dummy to test CRSs recommended for children with masses greater than 18 kg (40 lb). Under S7.1.2(e), NHTSA uses the HIII weighted six-year-old child test dummy to test CRSs for children with masses above 22.7 kg (50 lb). The children for whom Recaro sold the subject CRSs included children with masses from 18 kilograms (kg) (40 pounds (lb)) to 30 kg (65 lb). Thus, under FMVSS No. 213, Recaro's child restraints were required to meet the child restraint system integrity requirements of FMVSS No. 213 when tested with the six-year-old

[1] Petitioner informed NHTSA that production and distribution of the subject child restraints affected by the noncompliance were corrected effective July 9, 2014.

and weighted six-year-old test dummies.[2]

V. Summary of Recaro's Position: Recaro believes that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons.

(A) Recaro believes that the FMVSS No. 213 test procedure ''is a direct violation of the instructions and warnings included with each ProRIDE and Performance RIDE child restraint and would constitute a misuse of the child restraint by the consumer.'' Petitioner refers to page 36 of the ProRIDE/Performance RIDE instruction manuals and states that Recaro designed and tested the ProRIDE/Performance RIDE child restraints ''to meet FMVSS requirements when tested according to the instruction manual.'' Recaro highlights a statement on page 36 that states: ''Additionally, LATCH and top tether anchors are designed to a maximum limit which can vary by vehicle. Due to this variation, RECARO requires use of the vehicle seat belt for any child weighing more than 52 lbs (23.6 kg).'' [3] Petitioner states that installation in accordance with the instruction manuals decreases the likelihood of top tether anchor failure from the vehicle. Recaro states that it has limited lower anchor and top tether use for the ProRIDE/Performance RIDE since the inception of the RIDE platform, and recently lowered the LATCH limit to 45 pounds from the previously stated 52 pounds to meet current FMVSS No. 213 requirements. Recaro also mentions that ''NHTSA noted in its' [sic] 2012 FMVSS 213 Final Rule response, limitations were added to the lower anchors to 'prevent lower LATCH anchor loads from exceeding their required strength level specified in FMVSS 225.' '' Recaro states that it ''used this same rationale when they developed the RIDE platform in 2010 and concluded that a load limit of 52 pounds would be the safest for consumers.''

(B) Recaro states that ''post-crash structural integrity of the occupant compartment is more insignificant to safety when compared to the injury values and excursion data gathered from testing.'' Petitioner also states that ''technology has shown repeatedly that collapse, breakage, and crumpling of material minimizes energy and increases the rate of survival for the occupant in the event of a collision.'' Recaro believes that child restraint technology has fallen in-line with vehicle technology in recent years and that other child restraints have been designated ''compliant'' even though their convertible shell-to-base connection has been designed to crack and break during the peak loading in a crash. Recaro further states that the top tether webbing has been designed to rip and break apart under extreme loads to allow the deceleration time to increase for the occupant in the crash event. Petitioner states that, ''As long as the injury criterion meets industry standards, controlled breakage has proven multiple times to be a positive outcome in the event of a vehicle crash, as seen in the RIDE platform.''

(C) Recaro states that the ''2013 LATCH Manual'' published by Safe Ride News Publication ''confirms that top tether anchors in vehicles are becoming limited more frequently in the weight to which they can be subjected.'' Recaro argues that ''a majority of vehicles on the road instruct consumers to use top tether with load limit restrictions that align with RECARO's top tether load limit of 65 pounds minus the 20 pound weight of the child restraint equaling a 45 pound load limit.'' Recaro also refers to documents NHTSA placed in Docket No. NHTSA–2011–0176 regarding a 2012 final rule amending FMVSS No. 213 (77 FR 11626, February 27, 2012). Petitioner believes that the documents ''give validation to the reasoning by RECARO to limit the use of the top tether.''

(D) Recaro states that it is aware that NHTSA has a clear precedent of denying child restraint manufacturers' petitions for inconsequential noncompliance concerning top tether separation. However, Recaro believes that ''the environment in which those decisions were made has changed.'' Recaro claims that the methodology it uses to limit top tether loads actually increases safe installations of child restraints by limiting the pounds of force applied and decreasing the chance tether anchor load failures. Recaro also believes that in the event of tether separation, the increase to risk of safety is non-existent because the head excursion limits were not exceeded in NHTSA's compliance tests. Petitioner indicates that the risk of the subject child restraints impacting objects in the vehicle is identical to, or better than, other compliant child restraints because both restraints meet the same head excursion requirements.

Recaro states that in a previous denial of a petition for inconsequential noncompliance, NHTSA noted that if it granted the petition it would be contradictory to NHTSA's mission to promote greater use of LATCH and tether. Recaro believes that this reasoning is no longer relevant because in the aftermath of the February 2012 final rule, ''consumers are now more aware of the variation of tether load limits by vehicle manufacturers and consumers are also now becoming accustomed to reviewing limits to the LATCH system. This falls in line with the information and limits in the owner's manual provided with the ProRIDE and Performance RIDE.''

(E) Recaro states that its accident reports for the four years that the subject restraints have been on the market indicate no incidents of separation in the tether anchorage area. Petitioner surmises the reason that tether separation occurs in testing is due to an outdated test bench seat and testing apparatus.

In summation, Recaro believes that the described noncompliance of the subject child restraints is inconsequential to motor vehicle safety, and that its petition to exempt Recaro from providing recall notification of noncompliance, as required by 49 U.S.C. 30118, and remedying the recall noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA Decision:

NHTSA's Analysis: NHTSA has reviewed Recaro's analysis and has decided that the subject ProRIDE and Performance RIDE restraints' noncompliance is not inconsequential to motor vehicle safety.

We will now specifically address each of Recaro's arguments in the order presented in its petition.

(A) Recaro first characterizes NHTSA's installation of the ProRIDE and Performance RIDE with a top tether as ''a direct violation of the instructions and warnings . . . and would constitute a misuse'' condition. The petitioner's reasoning is unpersuasive. Recaro apparently argues (the petitioner's arguments are unclear) that NHTSA should not have tested the child restraints attached to the test seat assembly with a lap belt and tether because the manufacturer instructs consumers to use the ''vehicle seat belt for any child weighing more than 52 lbs (23.6 kg).'' The petitioner is unclear but we surmise that Recaro is saying that because it instructs users not to use the top tether with children weighing more than 52 lb, NHTSA's tethering the CRS was in error.

[2] The six-year-old dummy weighs approximately 47 lb and the weighted six-year-old dummy weighs approximately 62 lb.

[3] ''LATCH'' refers to Lower Anchors and Tethers for Children, an acronym developed by manufacturers and retailers to refer to the child restraint anchorage system required by FMVSS No. 225, ''Child restraint anchorage systems,'' for installation in motor vehicles. [Footnote not in text.]

This view constitutes an incorrect reading of FMVSS No. 213. FMVSS No. 213 requires that the ProRIDE/Performance RIDE meet FMVSS No. 213's dynamic test requirements when installed as specified by the standard. Recaro recommended (marketed) the ProRIDE/Performance RIDE child restraints for children with masses from 18 kg (40 lb) to 30 kg (65 lb). Under FMVSS No. 213, child restraints sold for children in this mass range are required to meet the standard's performance requirements, including the system integrity requirements, when tested with the six-year-old and weighted six-year-old test dummies. These test dummies represent the children for whom the child restraint is sold, and are used by NHTSA to assess the performance of the child restraint in protecting children intended for the restraint. If a top tether is necessary to meet FMVSS No. 213's 720 millimeter (mm) (28 inch) head excursion requirement,[4] the tether is attached when dynamically testing the CRS with those test dummies.[5] The standard seeks to test CRSs as consumers would use the CRSs in the real world. There is no provision in FMVSS No. 213 that enables manufacturers to exclude themselves from the requirements of the standard by way of ''fine print'' or other restrictions in instruction manuals.

If Recaro did not wish to have its child restraints tested with the six-year-old and weighted six-year-old test dummies in the tethered condition, the manufacturer could have recommended its CRSs for children weighing up to 18 kg (40 lb), not 30 kg (65 lb). Since Recaro marketed the CRS as suitable for children over 18 kg (40 lb), the manufacturer is responsible for ensuring that its CRSs meet all the requirements of FMVSS No. 213 when tested as specified by FMVSS No. 213, and cannot absolve itself of those responsibilities by using its instruction manual to limit NHTSA's assessment of the CRS in a compliance test.

Mr. Stewart states in his comment opposing the petition that, ''If a manufacturer is allowed to bypass FMVSS 213 standards simply by mandating or prohibiting certain actions in the instruction manual, what is the point of having standards?'' NHTSA concurs with the commenter that FMVSS No. 213's effectiveness would be substantially diminished if manufacturers were generally permitted to bypass the standard's requirements simply by mandating or prohibiting certain actions in the instruction manual.

The ProRIDE/Performance RIDE demonstrated structural integrity failure when the top tether belt separated at the attachment point to the child restraints. The top tether belt separation exhibited a complete separation of a load bearing structural element and therefore does not comply with the requirements set forth in paragraph S5.1.1(a) of FMVSS No. 213. Failure of a child restraint system in this manner increases the likelihood of head injury to the occupant, which is not insignificant or inconsequential to safety.

(B) NHTSA does not agree with Recaro's line of reasoning that its petition should be granted because ''technology has shown repeatedly that collapse, breakage, and crumpling of material minimizes energy and increases the rate of survival for the occupant in the event of a collision.'' The agency has consistently viewed tether strap separation in FMVSS No. 213 sled tests as a load bearing structural failure. A portion of the load of the child restraint and dummy is transferred to the vehicle by the top tether. A tether attachment failure in a compliance sled test indicates that the minimum level of occupant protection established by FMVSS No. 213 has not been provided.

In requiring the upper tether anchorage on vehicles and the tether strap on CRSs, NHTSA noted that, ''Test data show that an attached tether substantially improves the ability of a child restraint to protect against head impacts in a crash.'' [6] NHTSA does not agree with Recaro's assertion that the failure of the top tether demonstrates a design to allow tether breakage in order to mitigate crash forces and reduce the likelihood of injury to children. Rather, NHTSA believes that the total separation of the top tether, as seen in the Recaro compliance tests, demonstrates a failure of the load bearing element (top tether) to control forward motion of the dummy and, therefore, a liability in the child restraint that increases the potential for injury to children in real world crashes.

In its comment, Advocates states that—

> The damage to the child restraints in this case is unrelated to controlled breakage, of the RECARO restraint. For one thing, RECARO does not assert that the complete separation of the upper tether was a planned design feature of the child restraint. In addition, many other manufacturers have made use of controlled breakage techniques while still meeting all federal regulations. In this case, the failure of the top tether was not planned and its failure mode is not compliant with federal regulation. The consequences of unplanned, uncontrolled complete separation of a load bearing structural element are unknown and can be significantly dangerous if the failure leads to components becoming projectiles in the vehicle or if the failure induces a shock load to other load bearing structural elements.

NHTSA concurs with Advocates' observation that the ripping out of the top tether on the Recaro CRSs was likely an unplanned, uncontrolled event, far from a sought-after engineering feat of child restraint technology.

Moreover, FMVSS No. 213 does recognize the role that purposeful breakage in child restraint design can have in improving energy absorption performance. However, such breakage is and must be limited by the standard. S5.1.1 permits partial separations that do not result in sharp edges that may contact an occupant. Breakage of the CRS such as that demonstrated by the Recaro child restraints demonstrates a lack of system integrity and is prohibited by S5.1.1, FMVSS No. 213.

We disagree with Recaro's statement that ''post-crash structural integrity of the occupant compartment is more insignificant to safety when compared to the injury values and excursion data gathered from testing.'' Each of the requirements in FMVSS No. 213 addresses a safety need. The commenters address this issue well. Advocates states: ''NHTSA specifically included the prohibition against complete separation of any load bearing structural element specifically because the dangers associated with this occurrence were not addressed by the injury criteria alone.'' Mr. Stewart observes: ''If a seat breaks in half during testing but the dummy records lower injury measurement does the manufacturer get away with claiming that they designed it to break in half on purpose—as a way to manage energy?'' Child restraints must be able to hold together in a crash and safely manage the crash forces on the child occupant. To accomplish this, all requirements of the standard must be met.

We further note that the weighted six-year-old child test dummy is not instrumented and is not used to measure injury values and excursion limits when testing CRSs under FMVSS No. 213.[7] Accordingly, the structural integrity requirement is especially pertinent in assessing the crash performance of the subject Recaro child restraints when used with children weighing above 22.7 kg (50 lb), since

[4] S5.1.3.1(a)(1).

[5] Table to S5.1.3.1(a), S6.1.2(a)(1)(i)(A).

[6] 64 FR 10786, 10802; March 5, 1999.

[7] See S5(d) of FMVSS No. 213.

that is the only dynamic performance requirement that applies to the CRSs. Failure to comply with the requirement is not inconsequential to safety.

NHTSA has taken enforcement action for similar failures. In 2001, the agency notified Britax Child Safety, Inc., (Britax) of a potential noncompliance due to the detachment of a tether strap during dynamic testing of one of its child restraint models. Britax initiated a recall campaign to provide owners of the affected model with repair kits. In 2007, the agency notified Britax of a potential noncompliance due to the tether hook opening during dynamic testing of one of its child restraint models. Britax initiated a recall campaign to provide owners of the affected model with new tether hooks.

(C) The materials cited by the petitioner have no bearing on the merits of Recaro's petition. As explained above in NHTSA's response to Recaro's first argument, FMVSS No. 213 requires that the ProRIDE and Performance RIDE child restraints meet the structural integrity requirements when installed with the top tether. NHTSA does not know of any current material published on use of child restraint top tethers that supports not using the child restraint's top tether.

(D) Recaro's statement that ''the environment in which [previous denials of inconsequentiality petitions on tether failures] were made has changed'' is incorrect. NHTSA does not know of any current material published on use of child restraint top tethers that supports not using the child restraint's top tether. Moreover, granting the petition would be contradictory to NHTSA's mission to promote greater use of the top tether.

(E) The shortcoming in Recaro's design to meet the applicable FMVSS No. 213 dynamic test requirements poses an unacceptable safety risk. The risk exists and is unacceptable even if there has been no incident of separation in the tether anchorage area thus far.[8] NHTSA does not agree that the tether separation occurs in testing due to the testing equipment[9] but rather as a shortcoming in Recaro's design to meet the applicable FMVSS No. 213 dynamic test requirements.

NHTSA'S Decision: In consideration of the foregoing, NHTSA has decided that the ProRIDE and Performance RIDE's noncompliance poses a risk to safety and is therefore not inconsequential. Recaro has not met its burden of persuasion that the FMVSS No. 213 noncompliance identified in Recaro's noncompliance information report is inconsequential to motor vehicle safety. Accordingly, Recaro's petition is hereby denied and Recaro is obligated to provide notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Frank S. Borris,

Acting Associate Administrator for Enforcement.

[FR Doc. 2015–16936 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–59–P

[8] If in fact consumers are not using the tether with children over 52 lb in accordance with Recaro's instructions, then it follows that there would not be reports of tether failure. However, the children would not be benefiting from use of the tether in a crash. Recaro should have designed its restraints such that they could meet the structural integrity requirement when tethered, to afford the children the benefits of a structurally sound CRS and the benefits of the tether.

[9] No data or information was submitted by the petitioner to support this claim.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015—0069]

School Bus Occupant Protection: Taking Safety to a New Level Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is announcing a meeting that will be held in Washington, DC on July 23, 2015 to address the challenges and barriers that have prevented schools from taking action to install three-point seat belt systems in school buses. The workshop will include presentations and discussions on the topic. Information on the date, time, location, and framework for this public event is included in this notice. Attendance requires prior registration; there will be no registration at the door. There are no fees to register or to attend this event; however space is limited on a first-come basis. The meeting will also be webcast live at *www.nhtsa.gov.*

DATES: The workshop will be held on July 23, 2015, at the location indicated in the **ADDRESSES** section below. The workshop will start at 9:00 a.m. and is scheduled to continue until 4:15 p.m., local time. If you would like to register to attend the workshop, please contact the person identified under **FOR FURTHER INFORMATION CONTACT** no later than July 17, 2015.

ADDRESSES: The July 23, 2015 meeting will be held in the Media Center of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: If you would like to attend the workshop, please contact Pei Lee by the date specified under **DATES** section above, at: Telephone (202) 366–1836; email address: *pei.lee@dot.gov.* Please provide her with the following information: Name, title, affiliation, address, email address, and telephone number, and indicate whether you require accommodations such as a sign language interpreter or translator. If you are not a U.S. citizen, also provide your country of citizenship, date of birth, title or position, and passport or diplomatic ID number, along with expiration date.

SUPPLEMENTARY INFORMATION: NHTSA is hosting a meeting to address the challenges and barriers that have prevented schools from taking action to install three-point seat belt systems in school buses.

This meeting will update the current state of knowledge regarding occupant protection technology on school buses, identify operational challenges, and explore new approaches for funding mechanisms. The meeting will explore topics such as seating capacity loss, which in the past has prevented many States and school districts from considering three-point belt systems as an option, communication strategies to reach parents and children, and new training programs that may be needed for bus drivers and students. Additionally, the National Transportation Safety Board has been invited to present on their findings and recommendations from investigations of school bus crashes.

Workshop Procedures. NHTSA will conduct the meeting informally. Thus, technical rules of evidence will not apply. The workshop will include brief presentations and breakout group discussions with representatives from NHTSA and school transportation officials. There will be opportunities for attendees to ask NHTSA and the speakers questions.

To attend this workshop, please register with NHTSA by the date specified under the **DATES** section above by sending the required information to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Registration is necessary for security and space limitation reasons. After registration, NHTSA will send attendees follow-up information regarding workshop day logistics (*i.e.,* directions

to the building, parking accommodations, etc.).

For security purposes, photo identification is required to enter the Department of Transportation building. To allow sufficient time to clear security and enter the building, NHTSA recommends that workshop participants arrive 30 to 60 minutes prior to the start of the event.

Authority: 49 U.S.C. 30182.

Issued on: July 1, 2015.

Mark R. Rosekind,

Administrator.

[FR Doc. 2015–16892 Filed 7–9–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Indexing the Annual Operating Revenues of Railroads

The Surface Transportation Board (STB) is publishing the annual inflation-adjusted index factors for 2014. These factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology ensures that railroads are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extent to which individual railroads must comply with STB reporting requirements.

The STB's annual inflation-adjusted factors are based on the annual average Railroad's Freight Price Index which is developed by the Bureau of Labor Statistics (BLS). The STB's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

STB Railroad Inflation-Adjusted Index and Deflator Factor Table

Year	Index	Deflator
1991	409.50	[1]100.00
1992	411.80	99.45
1993	415.50	98.55
1994	418.80	97.70
1995	418.17	97.85
1996	417.46	98.02
1997	419.67	97.50
1998	424.54	96.38
1999	423.01	96.72
2000	428.64	95.45
2001	436.48	93.73
2002	445.03	91.92
2003	454.33	90.03
2004	473.41	86.40
2005	522.41	78.29
2006	567.34	72.09
2007	588.30	69.52
2008	656.78	62.28
2009	619.73	66.00
2010	652.29	62.71
2011	708.80	57.71
2012	740.61	55.23
2013	764.19	53.53
2014	778.41	52.55

[1] Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR 1201,* 8 I.C.C. 2d 625 (1992), raised the revenue classification level for Class I railroads from $50 million (1978 dollars) to $250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from $10 million (1978 dollars) to $20 million (1991 dollars).

Effective Date: January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez 202–245–0333. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339]

By the Board, William F. Huneke, Director, Office of Economics.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–16907 Filed 7–9–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13664

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and supplemental information for one individual whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13664 and whose names have been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective July 2, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On July 2, 2014, OFAC blocked the property and interests in property of the following two persons pursuant to E.O. 13664, ''Blocking Property of Certain Persons With Respect to South Sudan'':

1. DUAL, Simon Gatwech (a.k.a. DUAL, Simon Gatwec; a.k.a. DUAL, Simon Gatwich; a.k.a. DUAL, Simon Getwech; a.k.a. GARWICH, Simon; a.k.a. GATWEACH, Simon; a.k.a. GATWECH, Simon; a.k.a. GATWICK, Simon; a.k.a. ''Dhual''; a.k.a. ''General Gaduel''), Jonglei State, South Sudan; DOB 1953; POB Akobo, Jonglei State, South Sudan; alt. POB Akobo, Jonglei State, Sudan; alt. POB Uror County, Jonglei State, South Sudan; alt. POB Uror County, Jonglei State, Sudan; SPLA in Opposition Chief of General Staff; Major General (individual) [SOUTH SUDAN].

2. JOK RIAK, Gabriel (a.k.a. JOK, Gabriel; a.k.a. RIAK, Jock; a.k.a. RIAK, Jok), Wau, Western Bahr El Ghazal State, South Sudan; Unity State, South Sudan; DOB 1966; POB Bor, South Sudan; alt. POB Bor, Sudan; nationality South Sudan; Lieutenant General; Sector One Commander (individual) [SOUTH SUDAN].

OFAC supplemented the identification information for one individual whose property and interests in property are blocked pursuant to Executive Order 13664. The supplemental identification information for the individual is as follows:

WOL, Santino Deng (a.k.a. KUOL, Santino Deng; a.k.a. WUOL, Santino Deng); DOB 09 Nov 1962; POB Aweil, South Sudan; alt. POB Aweil, Sudan; Major General; Sudan People's Liberation Army Third Division Commander (individual) [SOUTH SUDAN].

Dated: July 2, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–16931 Filed 7–9–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0427]

Proposed Information Collection (Former Prisoner of War Medical History) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed for Veterans, Veteran Representatives and health care providers to request reimbursement from the federal government for emergency services at a private institution.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 8, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–0427'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Former Prisoner of War Medical History.

OMB Control Number: 2900–0427.

Type of Review: Revision.

Abstract: VA Form 10–0048, Former POW Medical History, is used to collect data in response to Public Law 97–37, the ''Former Prisoner of War Benefits Act of 1981,'' that liberalizes eligibility requirements and extends the existing benefits. Additionally, the National Advisory Committee on Former Prisoners Of War requires this information for their annual submission to Congress.

VA physician will obtain the information on the VA Form 10–0048 during a medical examination. If these questions were not asked, the physician would be unable to assess the health care, disability compensation or rehabilitation needs of the Former Prisoner Of War (FPOW). The importance of collecting this very detailed information when the veteran is first seen is critical, not only with the physician evaluating the veteran but also by the rating specialist who will rate this claim. The rater also reviews the statements given by the veteran on this form not only at the first claim submission but in future years when other disabilities are claimed. Feedback from POW physicians in the field indicates their appreciation of the well thought out content and structure of the form. It is useful not only for Compensation and Pension examinations but also as a guide and reference for treatment planning for the FPOW patient. The questions in the form make it relevant for FPOWS of current as well as prior conflicts.

Affected Public: Individuals or Households.

Estimated Annual Burden: 113 burden hours.

Estimated Average Burden per Respondent: 90 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 75.

By direction of the Secretary.

Kathleen M. Manwell,

VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–16905 Filed 7–9–15; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Department of Health and Human Services

Center for Medicare & Medicaid Services

42 CFR Parts 409, 424, and 484
Medicare and Medicaid Programs; CY 2016 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model; and Home Health Quality Reporting Requirements; Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Medicare & Medicaid Services

42 CFR Parts 409, 424, and 484

[CMS–1625–P]

RIN 0938–AS46

Medicare and Medicaid Programs; CY 2016 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model; and Home Health Quality Reporting Requirements

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update Home Health Prospective Payment System (HH PPS) rates, including the national, standardized 60-day episode payment rates, the national per-visit rates, and the non-routine medical supply (NRS) conversion factor under the Medicare prospective payment system for home health agencies (HHAs), effective for episodes ending on or after January 1, 2016. As required by the Affordable Care Act, this proposed rule implements the third year of the four-year phase-in of the rebasing adjustments to the HH PPS payment rates. This proposed rule provides information on our efforts to monitor the potential impacts of the rebasing adjustments. This proposed rule also proposes: reductions to the national, standardized 60-day episode payment rate in CY 2016 and CY 2017 of 1.72 percent in each year to account for estimated case-mix growth unrelated to increases in patient acuity (nominal case-mix growth) between CY 2012 and CY 2014; a HH value-based purchasing (HHVBP) model to be implemented beginning January 1, 2016 in which all Medicare-certified HHAs in selected states will be required to participate; changes to the home health quality reporting program requirements; and minor technical regulations text changes. Finally, this proposed rule would update the HH PPS case-mix weights using the most current, complete data available at the time of rulemaking and provide an update on the Report to Congress regarding the home health (HH) study.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 4, 2015.

ADDRESSES: In commenting, please refer to file code CMS–1625–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the ''More Search Options'' tab.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1625–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1625–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Hillary Loeffler, (410) 786–0456, for general information about the HH PPS.

Michelle Brazil, (410) 786–1648 for information about the HH quality reporting program.

Lori Teichman, (410) 786–6684, for information about HHCAHPS.

Robert Flemming, (844) 280–5628, for information about the HHVBP model.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. EST.

To schedule an appointment to view public comments, phone 1–800–743–3951.

Table of Contents

Regulations Text

Acronyms

In addition, because of the many terms to which we refer by abbreviation in this proposed rule, we are listing these abbreviations and their corresponding terms in alphabetical order below:

ACH LOS Acute Care Hospital Length of Stay
ADL Activities of Daily Living
APU Annual Payment Update
BBA Balanced Budget Act of 1997, Pub. L. 105–33
BBRA Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, Pub. L. 106–113
CAD Coronary Artery Disease
CAH Critical Access Hospital
CBSA Core-Based Statistical Area
CASPER Certification and Survey Provider Enhanced Reports
CHF Congestive Heart Failure
CMI Case-Mix Index
CMP Civil Money Penalty
CMS Centers for Medicare & Medicaid Services
CoPs Conditions of Participation
COPD Chronic Obstructive Pulmonary Disease
CVD Cardiovascular Disease
CY Calendar Year
DM Diabetes Mellitus
DRA Deficit Reduction Act of 2005, Pub. L. 109–171, enacted February 8, 2006
FDL Fixed Dollar Loss
FI Fiscal Intermediaries
FR Federal Register
FY Fiscal Year
HAVEN Home Assessment Validation and Entry System
HCC Hierarchical Condition Categories
HCIS Health Care Information System
HH Home Health
HHA Home Health Agency
HHCAHPS Home Health Care Consumer Assessment of Healthcare Providers and Systems Survey
HH PPS Home Health Prospective Payment System
HHRG Home Health Resource Group
HHVBP Home Health Value-Based Purchasing
HIPPS Health Insurance Prospective Payment System
HVBP Hospital Value-Based Purchasing
ICD–9–CM International Classification of Diseases, Ninth Revision, Clinical Modification
ICD–10–CM International Classification of Diseases, Tenth Revision, Clinical Modification
IH Inpatient Hospitalization
IMPACT Act Improving Medicare Post-Acute Care Transformation Act of 2014 (P.L. 113–185)
IRF Inpatient Rehabilitation Facility
LEF Linear Exchange Function
LTCH Long-Term Care Hospital
LUPA Low-Utilization Payment Adjustment
MEPS Medical Expenditures Panel Survey
MMA Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108–173, enacted December 8, 2003
MSA Metropolitan Statistical Area
MSS Medical Social Services
NQF National Quality Forum
NQS National Quality Strategy
NRS Non-Routine Supplies
OASIS Outcome and Assessment Information Set
OBRA Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–2–3, enacted December 22, 1987
OCESAA Omnibus Consolidated and Emergency Supplemental Appropriations Act, Pub. L. 105–277, enacted October 21, 1998
OES Occupational Employment Statistics
OIG Office of Inspector General
OT Occupational Therapy
OMB Office of Management and Budget
MFP Multifactor productivity
PAMA Protecting Access to Medicare Act of 2014
PAC–PRD Post-Acute Care Payment Reform Demonstration
PEP Partial Episode Payment Adjustment
PT Physical Therapy
PY Performance Year
PRRB Provider Reimbursement Review Board
QAP Quality Assurance Plan
RAP Request for Anticipated Payment
RF Renal Failure
RFA Regulatory Flexibility Act, Pub. L. 96–354
RHHIs Regional Home Health Intermediaries
RIA Regulatory Impact Analysis
SAF Standard Analytic File
SLP Speech-Language Pathology
SN Skilled Nursing
SNF Skilled Nursing Facility
TPS Total Performance Score
UMRA Unfunded Mandates Reform Act of 1995.
VBP Value-Based Purchasing

I. Executive Summary

A. Purpose

This proposed rule would update the payment rates for HHAs for calendar year (CY) 2016, as required under section 1895(b) of the Social Security Act (the Act). This would reflect the third year of the four-year phase-in of the rebasing adjustments to the national, standardized 60-day episode payment rate, the national per-visit rates, and the NRS conversion factor finalized in the CY 2014 HH PPS final rule (78 FR 72256), as required under section 3131(a) of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively referred to as the ''Affordable Care Act'').

This proposed rule also discusses our efforts to monitor the potential impacts of the rebasing adjustments mandated by section 3131(a) of the Affordable Care Act. This rule proposes: Reductions to the national, standardized 60-day episode payment rate in CY 2016 and CY 2017 of 1.72 percent in each year to account for case-mix growth unrelated to increases in patient acuity (nominal case-mix growth) between CY 2012 and CY 2014 under the authority of section 1895(b)(3)(B)(iv) of the Act; a HH Value-Based Purchasing (VBP) model, in which certain Medicare-certified HHAs would be required to participate beginning January 1, 2016, under the authority of section 1115(A) of the Act; changes to the home health quality reporting program requirements under section 1895(b)(3)(B)(v)(II) of the Act; and minor technical regulations text changes in 42 CFR parts 409, 424, and 484 to better align the payment requirements with recent statutory and regulatory changes for home health

services. Finally, this proposed rule would update the case-mix weights under section 1895(b)(4)(A)(i) and (b)(4)(B) of the Act and provide an update on the Report to Congress regarding the HH study required by section 3131(d) of the Affordable Care Act.

B. Summary of the Major Provisions

As required by section 3131(a) of the Affordable Care Act, and finalized in the CY 2014 HH final rule, ''Medicare and Medicaid Programs; Home Health Prospective Payment System Rate Update for 2014, Home Health Quality Reporting Requirements, and Cost Allocation of Home Health Survey Expenses'' (78 FR 77256, December 2, 2013), we are implementing the third year of the four-year phase-in of the rebasing adjustments to the national, standardized 60-day episode payment amount, the national per-visit rates and the NRS conversion factor in section III.C.3. The rebasing adjustments for CY 2016 would reduce the national, standardized 60-day episode payment amount by $80.95, increase the national per-visit payment amounts by 3.5 percent of the national per-visit payment amounts in CY 2010 with the increases ranging from $1.79 for home health aide services to $6.34 for medical social services, and reduce the NRS conversion factor by 2.82 percent.

This proposed rule also discusses our efforts to monitor the potential impacts of the rebasing adjustments in section III.A. In the CY 2015 HH PPS final rule (79 FR 66072), we finalized our proposal to recalibrate the case-mix weights every year with more current data. In section III.B.1 of this rule, we are recalibrating the HH PPS case-mix weights, using the most current cost and utilization data available, in a budget neutral manner. In addition, in section III.B.2 of this rule, we propose to reduce to the national, standardized 60-day episode payment rate in CY 2016 and CY 2017 by 1.72 percent in each year to account for estimated case-mix growth unrelated to increases in patient acuity (nominal case-mix growth) between CY 2012 and CY 2014. In section III.C.1 of this rule, we propose to update the payment rates under the HH PPS by the home health payment update percentage of 2.3 percent (using the 2010-based Home Health Agency (HHA) market basket update of 2.9 percent, minus 0.6 percentage point for productivity as required by section 1895(b)(3)(B)(vi)(I) of the Act. In the CY 2015 final rule (79 FR 66083 through 66087), we incorporated new geographic area designations, set out in a February 28, 2013 office of Management and Budget (OMB) bulletin, into the home health wage index. For CY 2015, we implemented a wage index transition policy consisting of a 50/50 blend of the old geographic area delineations and the new geographic area delineations. In section III.C.2 of this proposed rule, we propose to update the CY 2016 home health wage index using solely the new geographic area designations. In section III.D of this proposed rule, we discuss payments for high cost outliers. In section III.E, we propose to make several technical corrections in § 409, 424, and § 484 to better align the payment requirements with recent statutory and regulatory changes for home health services. The sections include § 409.43(e), § 424.22(a), § 484.205(d), § 484.205(e), § 484.220, § 484.225, § 484.230, § 484.240(b), § 484.240(e), § 484.240(f), § 484.245. In section III.F, we discuss the Report to Congress on the home health study required by section 3131(d) of the Affordable Care Act and provide an update on subsequent research and analysis.

In section IV of this proposed rule, we propose a HHVBP model to be implemented beginning January 1, 2016. Medicare-certified HHAs selected for inclusion in the HHVBP model would be required to compete for payment adjustments to their current PPS reimbursements based on quality performance. A competing Medicare-certified HHA is defined as an agency having a current Medicare certification and which is being reimbursed by CMS for home health care delivered within any of the nine states randomly selected under CMS' proposed selection methodology.

This proposed rule also includes changes to the home health quality reporting program in section III.V, including the proposal of one new quality measure, the establishment of a minimum threshold for submission of Outcome and Assessment Information Set (OASIS) assessments for purposes of quality reporting compliance, and submission dates for Home Health Care Consumer Assessment of Healthcare Providers and Systems Survey (HHCAHPS) Survey through CY 2018.

C. Summary of Costs and Transfers

TABLE 1—SUMMARY OF COSTS AND TRANSFERS

Provision description	Costs	Transfers
CY 2016 HH PPS Payment Rate Update	.....	The overall economic impact of the HH PPS payment rate update is an estimated −$350 million (−1.8 percent) in payments to HHAs.
CY 2016 HHVBP Model	.....	The overall economic impact of the HHVBP model provision for CY 2018 through 2022 is an estimated $380 million in total savings from a reduction in unnecessary hospitalizations and SNF usage as a result of greater quality improvements in the HH industry. As for payments to HHAs, there are no aggregate increases or decreases to the HHAs competing in the model.

II. Background

A. Statutory Background

The Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33, enacted August 5, 1997), significantly changed the way Medicare pays for Medicare HH services. Section 4603 of the BBA mandated the development of the HH PPS. Until the implementation of the HH PPS on October 1, 2000, HHAs received payment under a retrospective reimbursement system.

Section 4603(a) of the BBA mandated the development of a HH PPS for all Medicare-covered HH services provided under a plan of care (POC) that were paid on a reasonable cost basis by adding section 1895 of the Social Security Act (the Act), entitled ''Prospective Payment For Home Health Services.'' Section 1895(b)(1) of the Act requires the Secretary to establish a HH PPS for all costs of HH services paid under Medicare.

Section 1895(b)(3)(A) of the Act requires the following: (1) The computation of a standard prospective payment amount include all costs for HH services covered and paid for on a reasonable cost basis and that such amounts be initially based on the most recent audited cost report data available to the Secretary; and (2) the standardized prospective payment amount be adjusted to account for the

effects of case-mix and wage levels among HHAs.

Section 1895(b)(3)(B) of the Act addresses the annual update to the standard prospective payment amounts by the HH applicable percentage increase. Section 1895(b)(4) of the Act governs the payment computation. Sections 1895(b)(4)(A)(i) and (b)(4)(A)(ii) of the Act require the standard prospective payment amount to be adjusted for case-mix and geographic differences in wage levels. Section 1895(b)(4)(B) of the Act requires the establishment of an appropriate case-mix change adjustment factor for significant variation in costs among different units of services.

Similarly, section 1895(b)(4)(C) of the Act requires the establishment of wage adjustment factors that reflect the relative level of wages, and wage-related costs applicable to HH services furnished in a geographic area compared to the applicable national average level. Under section 1895(b)(4)(C) of the Act, the wage-adjustment factors used by the Secretary may be the factors used under section 1886(d)(3)(E) of the Act.

Section 1895(b)(5) of the Act gives the Secretary the option to make additions or adjustments to the payment amount otherwise paid in the case of outliers due to unusual variations in the type or amount of medically necessary care. Section 3131(b)(2) of the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act) (Pub. L. 111–148, enacted March 23, 2010) revised section 1895(b)(5) of the Act so that total outlier payments in a given year would not exceed 2.5 percent of total payments projected or estimated. The provision also made permanent a 10 percent agency-level outlier payment cap.

In accordance with the statute, as amended by the BBA, we published a final rule in the July 3, 2000 **Federal Register** (65 FR 41128) to implement the HH PPS legislation. The July 2000 final rule established requirements for the new HH PPS for HH services as required by section 4603 of the BBA, as subsequently amended by section 5101 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act (OCESAA) for Fiscal Year 1999, (Pub. L. 105–277, enacted October 21, 1998); and by sections 302, 305, and 306 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act (BBRA) of 1999, (Pub. L. 106–113, enacted November 29, 1999). The requirements include the implementation of a HH PPS for HH services, consolidated billing requirements, and a number of other related changes. The HH PPS described in that rule replaced the retrospective reasonable cost-based system that was used by Medicare for the payment of HH services under Part A and Part B. For a complete and full description of the HH PPS as required by the BBA, see the July 2000 HH PPS final rule (65 FR 41128 through 41214).

Section 5201(c) of the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109–171, enacted February 8, 2006) added new section 1895(b)(3)(B)(v) to the Act, requiring HHAs to submit data for purposes of measuring health care quality, and links the quality data submission to the annual applicable percentage increase. This data submission requirement is applicable for CY 2007 and each subsequent year. If an HHA does not submit quality data, the HH market basket percentage increase is reduced by 2 percentage points. In the November 9, 2006 **Federal Register** (71 FR 65884, 65935), we published a final rule to implement the pay-for-reporting requirement of the DRA, which was codified at § 484.225(h) and (i) in accordance with the statute. The pay-for-reporting requirement was implemented on January 1, 2007.

The Affordable Care Act made additional changes to the HH PPS. One of the changes in section 3131 of the Affordable Care Act is the amendment to section 421(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173, enacted on December 8, 2003) as amended by section 5201(b) of the DRA. Section 421(a) of the MMA, as amended by section 3131 of the Affordable Care Act, requires that the Secretary increase, by 3 percent, the payment amount otherwise made under section 1895 of the Act, for HH services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Act) with respect to episodes and visits ending on or after April 1, 2010, and before January 1, 2016. Section 210 of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114–10) amended section 421(a) of the MMA to extend the rural add-on for two more years. Section 421(a) of the MMA, as amended by section 210 of the MACRA, requires that the Secretary increase, by 3 percent, the payment amount otherwise made under section 1895 of the Act, for HH services provided in a rural area (as defined in section 1886(d)(2)(D) of the Act) with respect to episodes and visits ending on or after April 1, 2010, and before January 1, 2018.

B. System for Payment of Home Health Services

Generally, Medicare makes payment under the HH PPS on the basis of a national standardized 60-day episode payment rate that is adjusted for the applicable case-mix and wage index. The national standardized 60-day episode rate includes the six HH disciplines (skilled nursing, HH aide, physical therapy, speech-language pathology, occupational therapy, and medical social services). Payment for non-routine supplies (NRS) is no longer part of the national standardized 60-day episode rate and is computed by multiplying the relative weight for a particular NRS severity level by the NRS conversion factor (See section II.D.4.e). Payment for durable medical equipment covered under the HH benefit is made outside the HH PPS payment system. To adjust for case-mix, the HH PPS uses a 153-category case-mix classification system to assign patients to a home health resource group (HHRG). The clinical severity level, functional severity level, and service utilization are computed from responses to selected data elements in the OASIS assessment instrument and are used to place the patient in a particular HHRG. Each HHRG has an associated case-mix weight which is used in calculating the payment for an episode.

For episodes with four or fewer visits, Medicare pays national per-visit rates based on the discipline(s) providing the services. An episode consisting of four or fewer visits within a 60-day period receives what is referred to as a low-utilization payment adjustment (LUPA). Medicare also adjusts the national standardized 60-day episode payment rate for certain intervening events that are subject to a partial episode payment adjustment (PEP adjustment). For certain cases that exceed a specific cost threshold, an outlier adjustment may also be available.

C. Updates to the Home Health Prospective Payment System

As required by section 1895(b)(3)(B) of the Act, we have historically updated the HH PPS rates annually in the **Federal Register**. The August 29, 2007 final rule with comment period set forth an update to the 60-day national episode rates and the national per-visit rates under the HH PPS for CY 2008. The CY 2008 HH PPS final rule included an analysis performed on CY 2005 HH claims data, which indicated a 12.78 percent increase in the observed case-mix since 2000. Case-mix represents the variations in conditions of the patient population served by the

HHAs. Subsequently, a more detailed analysis was performed on the 2005 case-mix data to evaluate if any portion of the 12.78 percent increase was associated with a change in the actual clinical condition of HH patients. We examined data on demographics, family severity, and non-HH Part A Medicare expenditures to predict the average case-mix weight for 2005. We identified 8.03 percent of the total case-mix change as real, and therefore, decreased the 12.78 percent of total case-mix change by 8.03 percent to get a final nominal case-mix increase measure of 11.75 percent (0.1278 * (1 − 0.0803) = 0.1175).

To account for the changes in case-mix that were not related to an underlying change in patient health status, we implemented a reduction, over 4 years, to the national, standardized 60-day episode payment rates. That reduction was to be 2.75 percent per year for 3 years beginning in CY 2008 and 2.71 percent for the fourth year in CY 2011. In the CY 2011 HH PPS final rule (76 FR 68532), we updated our analyses of case-mix change and finalized a reduction of 3.79 percent, instead of 2.71 percent, for CY 2011 and deferred finalizing a payment reduction for CY 2012 until further study of the case-mix change data and methodology was completed.

In the CY 2012 HH PPS final rule (76 FR 68526), we updated the 60-day national episode rates and the national per-visit rates. In addition, as discussed in the CY 2012 HH PPS final rule (76 FR 68528), our analysis indicated that there was a 22.59 percent increase in overall case-mix from 2000 to 2009 and that only 15.76 percent of that overall observed case-mix percentage increase was due to real case-mix change. As a result of our analysis, we identified a 19.03 percent nominal increase in case-mix. At that time, to fully account for the 19.03 percent nominal case-mix growth identified from 2000 to 2009, we finalized a 3.79 percent payment reduction in CY 2012 and a 1.32 percent payment reduction for CY 2013.

In the CY 2013 HH PPS final rule (77 FR 67078), we implemented a 1.32 percent reduction to the payment rates for CY 2013 to account for nominal case-mix growth from 2000 through 2010. When taking into account the total measure of case-mix change (23.90 percent) and the 15.97 percent of total case-mix change estimated as real from 2000 to 2010, we obtained a final nominal case-mix change measure of 20.08 percent from 2000 to 2010 (0.2390 * (1 − 0.1597) = 0.2008). To fully account for the remainder of the 20.08 percent increase in nominal case-mix beyond that which was accounted for in previous payment reductions, we estimated that the percentage reduction to the national, standardized 60-day episode rates for nominal case-mix change would be 2.18 percent. Although we considered proposing a 2.18 percent reduction to account for the remaining increase in measured nominal case-mix, we finalized the 1.32 percent payment reduction to the national, standardized 60-day episode rates in the CY 2012 HH PPS final rule (76 FR 68532).

Section 3131(a) of the Affordable Care Act requires that, beginning in CY 2014, we apply an adjustment to the national, standardized 60-day episode rate and other amounts that reflect factors such as changes in the number of visits in an episode, the mix of services in an episode, the level of intensity of services in an episode, the average cost of providing care per episode, and other relevant factors. Additionally, we must phase in any adjustment over a four-year period in equal increments, not to exceed 3.5 percent of the amount (or amounts) as of the date of enactment of the Affordable Care Act, and fully implement the rebasing adjustments by CY 2017. The statute specifies that the maximum rebasing adjustment is to be no more than 3.5 percent per year of the CY 2010 rates. Therefore, in the CY 2014 HH PPS final rule (78 FR 72256) for each year, CY 2014 through CY 2017, we finalized a fixed-dollar reduction to the national, standardized 60-day episode payment rate of $80.95 per year, increases to the national per-visit payment rates per year as reflected in Table 2, and a decrease to the NRS conversion factor of 2.82 percent per year. We also finalized three separate LUPA add-on factors for skilled nursing, physical therapy, and speech-language pathology and removed 170 diagnosis codes from assignment to diagnosis groups in the HH PPS Grouper. In the CY 2015 HH PPS final rule (79 FR 66032), we implemented the second year of the four-year phase-in of the rebasing adjustments to the HH PPS payment rates and made changes to the HH PPS case-mix weights. In addition, we simplified the face-to-face encounter regulatory requirements and the therapy reassessment timeframes.

TABLE 2—MAXIMUM ADJUSTMENTS TO THE NATIONAL PER-VISIT PAYMENT RATES

[Not to Exceed 3.5 Percent of the Amount(s) in CY 2010]

	2010 National per-visit payment rates	Maximum adjustments per year (CY 2014 through CY 2017)
Skilled Nursing	$113.01	$3.96
Home Health Aide	51.18	1.79
Physical Therapy	123.57	4.32
Occupational Therapy	124.40	4.35
Speech-Language Pathology	134.27	4.70
Medical Social Services	181.16	6.34

D. Advancing Health Information Exchange

HHS has a number of initiatives designed to encourage and support the adoption of health information technology and to promote nationwide health information exchange to improve health care. As discussed in the August 2013 Statement ''Principles and Strategies for Accelerating Health Information Exchange'' (available at *http://www.healthit.gov/sites/default/files/acceleratinghieprinciples_strategy.pdf*), HHS believes that all individuals, their families, their healthcare and social service providers, and payers should have consistent and timely access to health information in a standardized format that can be securely exchanged between the patient, providers, and others involved in the individual's care. Health IT that facilitates the secure, efficient and effective sharing and use of health-

related information when and where it is needed is an important tool for settings across the continuum of care, including home health. While home health providers are not eligible for the Medicare and Medicaid EHR Incentive Programs, effective adoption and use of health information exchange and health IT tools will be essential as these settings seek to improve quality and lower costs through initiatives such as value-based purchasing.

The Office of the National Coordinator for Health Information Technology (ONC) has released a document entitled ''Connecting Health and Care for the Nation: A Shared Nationwide Interoperability Roadmap Draft Version 1.0 (draft Roadmap) (available at *http://www.healthit.gov/sites/default/files/nationwide-interoperability-roadmap-draft-version-1.0.pdf*) which describes barriers to interoperability across the current health IT landscape, the desired future state that the industry believes will be necessary to enable a learning health system, and a suggested path for moving from the current state to the desired future state. In the near term, the draft Roadmap focuses on actions that will enable a majority of individuals and providers across the care continuum to send, receive, find and use a common set of electronic clinical information at the nationwide level by the end of 2017. The Roadmap's goals also align with the IMPACT Act of 2014 which requires assessment data to be standardized and interoperable to allow for exchange of the data. Moreover, the vision described in the draft Roadmap significantly expands the types of electronic health information, information sources and information users well beyond clinical information derived from electronic health records (EHRs). This shared strategy is intended to reflect important actions that both public and private sector stakeholders can take to enable nationwide interoperability of electronic health information such as: (1) Establishing a coordinated governance framework and process for nationwide health IT interoperability; (2) improving technical standards and implementation guidance for sharing and using a common clinical data set; (3) enhancing incentives for sharing electronic health information according to common technical standards, starting with a common clinical data set; and (4) clarifying privacy and security requirements that enable interoperability.

In addition, ONC has released the draft version of the 2015 Interoperability Standards Advisory (available at *http://www.healthit.gov/standards-advisory*), which provides a list of the best available standards and implementation specifications to enable priority health information exchange functions. Providers, payers, and vendors are encouraged to take these ''best available standards'' into account as they implement interoperable health information exchange across the continuum of care, including care settings such as behavioral health, long-term and post-acute care, and home and community-based service providers.

We encourage stakeholders to utilize health information exchange and certified health IT to effectively and efficiently help providers improve internal care delivery practices, engage patients in their care, support management of care across the continuum, enable the reporting of electronically specified clinical quality measures (eCQMs), and improve efficiencies and reduce unnecessary costs. As adoption of certified health IT increases and interoperability standards continue to mature, HHS will seek to reinforce standards through relevant policies and programs.

III. Proposed Provisions of the Home Health Prospective Payment System

A. Monitoring for Potential Impacts—Affordable Care Act Rebasing Adjustments

1. Analysis of FY 2013 HHA Cost Report Data

As part of our efforts in monitoring the potential impacts of the rebasing adjustments finalized in the CY 2014 HH PPS final rule (78 FR 72293), we continue to update our analysis of home health cost report and claims data. In the CY 2014 HH PPS final rule, using 2011 cost report and 2012 claims data, we estimated the 2013 60-day episode cost to be $2,565.51 (78 FR 72277). In that final rule, we stated that our analysis of 2011 cost report data and 2012 claims data indicated a need for a −3.45 percent rebasing adjustment to the national, standardized 60-day episode payment rate each year for four years. However, as specified by statute, the rebasing adjustment is limited to 3.5 percent of the CY 2010 national, standardized 60-day episode payment rate of $2,312.94 (74 FR 58106), or $80.95. We stated that given that a −3.45 percent adjustment for CY 2014 through CY 2017 would result in larger dollar amount reductions than the maximum dollar amount allowed under section 3131(a) of the Affordable Care Act of $80.95, we were limited to implementing a reduction of $80.95 (approximately 2.8 percent for CY 2014) to the national, standardized 60-day episode payment amount each year for CY 2014 through CY 2017.

In the CY 2015 HH PPS final rule, (79 FR 66032–66118) using 2012 cost report and 2013 claims data, we estimated the 2013 60-day episode cost to be $2,485.24 (79 FR 66037). Similar to our discussion in the CY 2014 HH PPS final rule, we stated that absent the Affordable Care Act's limit to rebasing, in order to align payments with costs, a −4.21 percent adjustment would have been applied to the national, standardized 60-day episode payment amount each year for CY 2014 through CY 2017.

For this proposed rule, we analyzed 2013 HHA cost report data and 2013 HHA claims data to determine whether the average cost per episode was higher using 2013 cost report data compared to the 2011 cost report and 2012 claims data used in calculating the rebasing adjustments. To determine the 2013 average cost per visit per discipline, we applied the same trimming methodology outlined in the CY 2014 HH PPS proposed rule (78 FR 40284) and weighted the costs per visit from the 2013 cost reports by size, facility type, and urban/rural location so the costs per visit were nationally representative according to 2013 claims data. The 2013 average number of visits was taken from 2013 claims data. We estimate the cost of a 60-day episode in CY 2013 to be $2,402.11 using 2013 cost report data (Table 3). Our latest analysis of 2013 cost report and 2013 claims data suggests that an even larger reduction (−5.02 percent) than the reduction described in the CY 2014 HH PPS final rule (−3.45 percent) or the reduction described in the CY 2015 HH PPS final rule (−4.21) would have been needed in order to align payments with costs.

TABLE 3—2013 ESTIMATED COST PER EPISODE

Discipline	2013 average costs per visit	2013 average number of visits	2013 60-day episode costs
Skilled Nursing	$131.43	9.28	$1,219.67
Home Health Aide	59.87	2.41	144.29
Physical Therapy	154.96	5.03	779.45
Occupational Therapy	154.11	1.22	188.01
Speech-Language Pathology	164.59	0.25	41.15
Medical Social Services	211.02	0.14	29.54
Total	.....	18.33	2,402.11

Source: FY 2013 Medicare cost report data and 2013 Medicare claims data from the standard analytic file (as of June 30, 2014) for episodes (excluding low-utilization payment adjusted episodes and partial-episode-payment adjusted episodes) ending on or before December 31, 2013 for which we could link an OASIS assessment.

2. MedPAC Report to the Congress: Home Health Payment Rebasing

Section 3131(a) of the Affordable Care Act required the Medicare Payment Advisory Commission (MedPAC) to assess, by January 1, 2015, the impact of the mandated rebasing adjustments on quality of and beneficiary access to home health care. As part of this assessment, the statute required MedPAC to consider the impact on care delivered by rural, urban, nonprofit, and for-profit home health agencies. MedPAC's Report to Congress noted that the rebasing adjustments are partially offset by the payment update each year and across all four years of the phase-in of the rebasing adjustments the cumulative net reduction would equal about 2 percent. MedPAC concluded that, as a result of the payment update offsets to the rebasing adjustments, HHA margins are likely to remain high under the current rebasing policy and quality of care and beneficiary access to care are unlikely to be negatively affected.[1]

As we noted in the CY 2014 HH PPS final rule (78 FR 72291), MedPAC's past reviews of access to home health care found that access generally remained adequate during periods of substantial decline in the number of agencies. MedPAC stated that this is due in part to the low capital requirements for home health care services that allow the industry to react rapidly when the supply of agencies changes or contracts. As described in section III.A.3, the number of HHAs billing Medicare for home health services in CY 2013 is 80 percent higher than the number of HHAs billing Medicare for home health services in 2001. Even if some HHAs were to exit the program due to possible reimbursement concerns, the home health market would be expected to remain robust.

3. Analysis of CY 2014 HHA Claims Data

In the CY 2014 HH PPS final rule (78 FR 72256), some commenters expressed concern that the rebasing of the HH PPS payment rates would result in HHA closures and would therefore diminish access to home health services. In addition to examining more recent cost report data, for this proposed rule we examined home health claims data from the first year of the four-year phase-in of the rebasing adjustments (CY 2014), the first calendar year of the HH PPS (CY 2001), and claims data for the three years before implementation of the rebasing adjustments (CY 2011–2013). Preliminary analysis of CY 2014 home health claims data indicates that the number of episodes decreased by 3.8 percent between 2013 and 2014. In addition, the number of home health users decreased by approximately 3 percent between 2013 and 2014, while the number of FFS beneficiaries has remained the same. Between 2013 and 2014 there appears to be a net decrease in the number of HHAs billing Medicare for home health services of 1.6 percent, driven mostly by decreases TX and FL, two of the six states with the highest utilization of Medicare home health (*see* Table 3 and Table 4). The HHAs that no longer billed Medicare for home health services in CY 2014 typically served beneficiaries that were nearly twice as likely to be dually-eligible for both Medicare and Medicaid in CY 2013 compared to the national average for all HHAs in CY 2013. We note that in CY 2014 there were 3.0 HHAs per 10,000 FFS beneficiaries, the same number of HHAs per 10,000 FFS beneficiaries as there was in 2011, but markedly higher than the 1.9 HHAs per 10,000 FFS beneficiaries in 2001. If we were to exclude the six states with the highest home health utilization (*see* Table 5), the number of episodes amongst the remaining states (including Guam, Puerto Rico, and the Virgin Islands) decreased by 2.6 percent between 2013 and 2014, the number of home health users decreased by approximately 2.4 percent between 2013 and 2014, and the number of HHAs billing Medicare for home health services remained virtually the same (a net decrease of only 1 HHA).

We would note that preliminary data on hospital and skilled nursing facility discharges and days indicates that there was a decrease in hospital discharges of approximately 3 percent and a decrease in SNF days of approximately 2 percent in CY 2014. Any decreases in hospital discharges and skilled nursing facility days could, in turn, impact home health utilization as those settings serve as important sources of home health referrals.

TABLE 4—HOME HEALTH STATISTICS, CY 2001 AND CY 2011 THROUGH CY 2014

	2001	2011	2012	2013	2014
Number of episodes	3,896,502	6,821,459	6,727,875	6,708,923	6,451,283
Beneficiaries receiving at least 1 episode (Home Health Users)	2,412,318	3,449,231	3,446,122	3,484,579	3,381,635

[1] Medicare Payment Advisory Commission (MedPAC), ''Report to the Congress: Impact of Home Health Payment Rebasing on Beneficiary Access to and Quality of Care''. December 2014. Washington, DC. Accessed on 5/05/15 at: *http://www.medpac.gov/documents/reports/dec14_homehealth_rebasing_report.pdf?sfvrsn=0.*

TABLE 4—HOME HEALTH STATISTICS, CY 2001 AND CY 2011 THROUGH CY 2014—Continued

	2001	2011	2012	2013	2014
Part A and/or B FFS beneficiaries	34,899,167	37,686,526	38,224,640	38,505,609	38,506,534
Episodes per Part A and/or B FFS beneficiaries	0.11	0.18	0.18	0.17	0.17
Home health users as a percentage of Part A and/or B FFS beneficiaries	6.9%	9.2%	9.0%	9.0%	8.8%
HHAs providing at least 1 episode	6,511	11,446	11,746	11,889	11,693
HHAs per 10,000 Part A and/or B FFS beneficiaries	1.9	3.0	3.1	3.1	3.0

Source: National claims history (NCH) data obtained from Chronic Condition Warehouse (CCW)—Accessed on May 14, 2014 and August 19, 2014 for CY 2011, CY 2012, and CY 2013 data; and accessed on May 7, 2015 for CY 2001 and CY 2014 data. Medicare enrollment information obtained from the CCW Master Beneficiary Summary File. Beneficiaries are the total number of beneficiaries in a given year with at least 1 month of Part A and/or Part B Fee-for-Service coverage without having any months of Medicare Advantage coverage.

Note(s): These results include all episode types (Normal, PEP, Outlier, LUPA) and also include episodes from outlying areas (outside of 50 States and District of Columbia). Only episodes with a through date in the year specified are included. Episodes with a claim frequency code equal to "0" ("Non-payment/zero claims") and "2" ("Interim—first claim") are excluded. If a beneficiary is treated by providers from multiple states within a year the beneficiary is counted within each state's unique number of beneficiaries served.

For the six states (TX, LA, OK, MS, FL, and IL) with the highest utilization of Medicare home health (as measured by the number of episodes per Part A and/or Part B FFS beneficiaries), the number of episodes decreased by 5.7 percent, the number of home health users decreased by 4.3 percent, and the number of HHAs billing Medicare decreased by 3.7 percent (5,280–5,085) between 2013 and 2014 (*see* Table 5). A possible contributing factor to these decreases may be the temporary moratorium on the enrollment of new HHAs, effective July 31, 2013, for Miami, FL and Chicago, IL and the temporary moratorium on enrollment of new HHAs, effective February 4, 2014, for Fort Lauderdale, FL; Detroit, MI; Dallas, TX; and Houston, TX. The temporary moratoria on enrollment of new HHAs in Miami, FL; Chicago, IL; Fort Lauderdale, FL; Detroit, MI; Dallas, TX; and Houston, TX were extended for 6 months on August 1, 2014 and again for 6 months effective January 29, 2015 (80 FR 5551).

TABLE 5—HOME HEALTH STATISTICS FOR THE STATES WITH THE HIGHEST NUMBER OF HOME HEALTH EPISODES PER PART A AND/OR PART B FFS BENEFICIARIES, CY 2001 AND CY 2011 THROUGH CY 2014

	Year	TX	FL	OK	MS	LA	IL
Number of Episodes	2001	285,710	284,579	77,149	73,353	124,789	162,686
	2011	1,107,605	701,426	203,112	153,983	249,479	433,117
	2012	1,054,244	691,255	196,887	148,516	230,115	423,462
	2013	995,555	689,269	196,713	143,428	215,590	421,309
	2014	941,815	651,940	189,421	141,293	196,495	389,850
Beneficiaries Receiving at Least 1 Episode (Home Health Users)	2001	155,802	195,678	36,919	35,769	50,760	105,115
	2011	363,474	355,900	67,218	55,818	77,677	192,921
	2012	350,803	354,838	65,948	55,438	74,755	191,936
	2013	333,396	357,099	66,502	55,453	73,888	191,961
	2014	319,492	343,231	65,392	54,890	69,328	179,835
Part A and/or Part B FFS Beneficiaries	2001	2,132,310	2,246,313	480,556	436,751	528,287	1,543,158
	2011	2,597,406	2,454,124	549,687	476,497	561,531	1,785,278
	2012	2,604,458	2,451,790	558,500	480,218	568,483	1,812,241
	2013	2,535,611	2,454,216	568,815	483,439	574,654	1,836,862
	2014	2,564,292	2,464,748	580,267	491,482	575,832	1,674,935
Episodes per Part A and/or Part B FFS beneficiaries	2001	0.13	0.13	0.16	0.17	0.24	0.11
	2011	0.43	0.29	0.37	0.32	0.44	0.24
	2012	0.40	0.28	0.35	0.31	0.40	0.23
	2013	0.39	0.28	0.35	0.30	0.38	0.23
	2014	0.37	0.26	0.33	0.29	0.34	0.23
Home Health Users as a Percentage of Part A and/or Part B FFS Beneficiaries	2001	7.3%	8.7%	7.7%	8.2%	9.6%	6.8%
	2011	14.0%	14.5%	12.2%	11.7%	13.8%	10.8%
	2012	13.5%	14.5%	11.8%	11.5%	13.2%	10.6%
	2013	13.2%	14.6%	11.7%	11.5%	12.9%	10.5%
	2014	12.5%	13.9%	11.3%	11.2%	12.0%	10.7%
HHAs Providing at Least 1 Episode	2001	799	330	180	61	242	273
	2011	2,472	1,426	252	51	216	743
	2012	2,549	1,430	254	48	213	783
	2013	2,600	1,357	262	48	210	803
	2014	2,558	1,230	262	46	205	784

TABLE 5—HOME HEALTH STATISTICS FOR THE STATES WITH THE HIGHEST NUMBER OF HOME HEALTH EPISODES PER PART A AND/OR PART B FFS BENEFICIARIES, CY 2001 AND CY 2011 THROUGH CY 2014—Continued

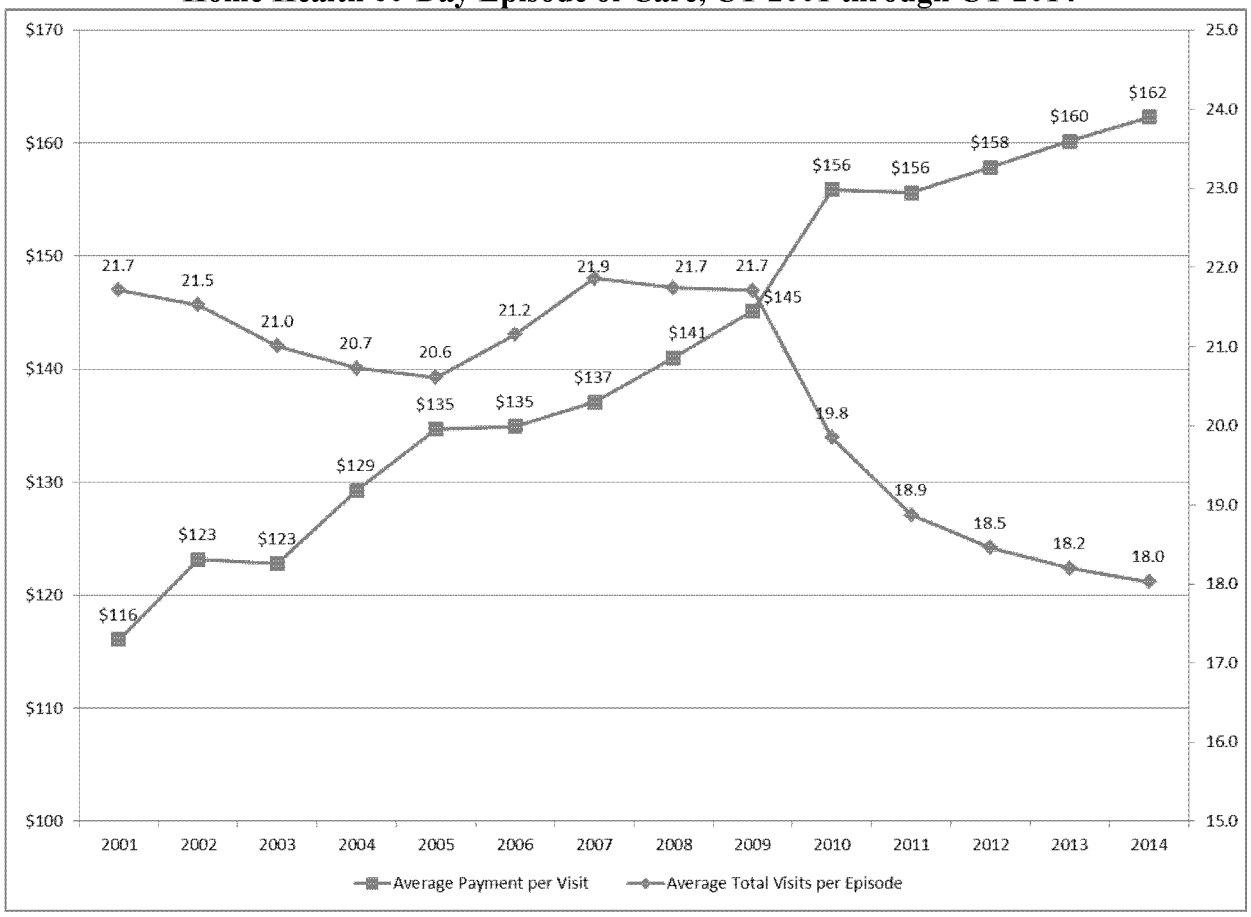
	Year	TX	FL	OK	MS	LA	IL
HHAs per 10,000 Part A and/or B FFS beneficiaries	2001	3.7	1.5	3.7	1.4	4.6	1.8
	2011	9.5	5.8	4.6	1.1	3.8	4.2
	2012	9.8	5.8	4.5	1.0	3.7	4.3
	2013	10.3	5.5	4.6	1.0	3.7	4.4
	2014	10.0	5.0	4.5	0.9	3.6	4.7

Source: National claims history (NCH) data obtained from Chronic Condition Warehouse (CCW)—Accessed on May 14, 2014 and August 19, 2014 for CY 2011, CY 2012, and CY 2013 data; and accessed on May 7, 2015 for CY 2001 and CY 2014 data. Medicare enrollment information obtained from the CCW Master Beneficiary Summary File. Beneficiaries are the total number of beneficiaries in a given year with at least 1 month of Part A and/or Part B Fee-for-Service coverage without having any months of Medicare Advantage coverage.

Note(s): These results include all episode types (Normal, PEP, Outlier, LUPA) and also include episodes from outlying areas (outside of 50 States and District of Columbia). Only episodes with a through date in the year specified are included. Episodes with a claim frequency code equal to ''0'' (''Non-payment/zero claims'') and ''2'' (''Interim—first claim'') are excluded. If a beneficiary is treated by providers from multiple states within a year the beneficiary is counted within each state's unique number of beneficiaries served.

In addition to examining home health claims data from the first year of the implementation of rebasing adjustments required by the Affordable Care Act and comparing utilization in that year (CY 2014) to the three years prior and to the first calendar year following the implementation of the HH PPS (CY 2001), we subsequently examined trends in home health utilization for all years starting in CY 2001 and up through CY 2014. Figure 1, displays the average number of visits per 60-day episode of care and the average payment per visit. While the average payment per visit has steadily increased from approximately $116 in CY 2001 to $162 for CY 2014, the average total number of visits per 60-day episode of care has declined, most notably between CY 2009 (21.7 visits per episode) and CY 2014 (18.0 visit per episode). As noted in section II.C, we implemented a series of reductions to the national, standardized 60-day episode payment rate to account for increases in nominal case-mix, starting in CY 2008. The reductions to the 60-day episode rate were: 2.75 percent each year for CY 2008, CY 2009, and CY 2010; 3.79 percent for CY 2011and CY 2012; and a 1.32 percent payment reduction for CY 2013. Figure 2 displays the average number of visits by discipline type for a 60-day episode of care and shows that while the number of therapy visits per 60-day episode of care has increased slightly, the number of skilled nursing and home health aide visits have decreased, between CY 2009 and CY 2014. Section III.F describes the results of the home health study required by section 3131(d) of the Affordable Care Act, which suggests that the current home health payment system may discourage HHAs from serving patients with clinically complex and/or poorly controlled chronic conditions who do not qualify for therapy but require a large number of skilled nursing visits. The home health study results seems to be consistent with the recent trend in the decreased number of visits per episode of care driven by decreases in skilled nursing and home health aide services evident in Figures 1 and 2.

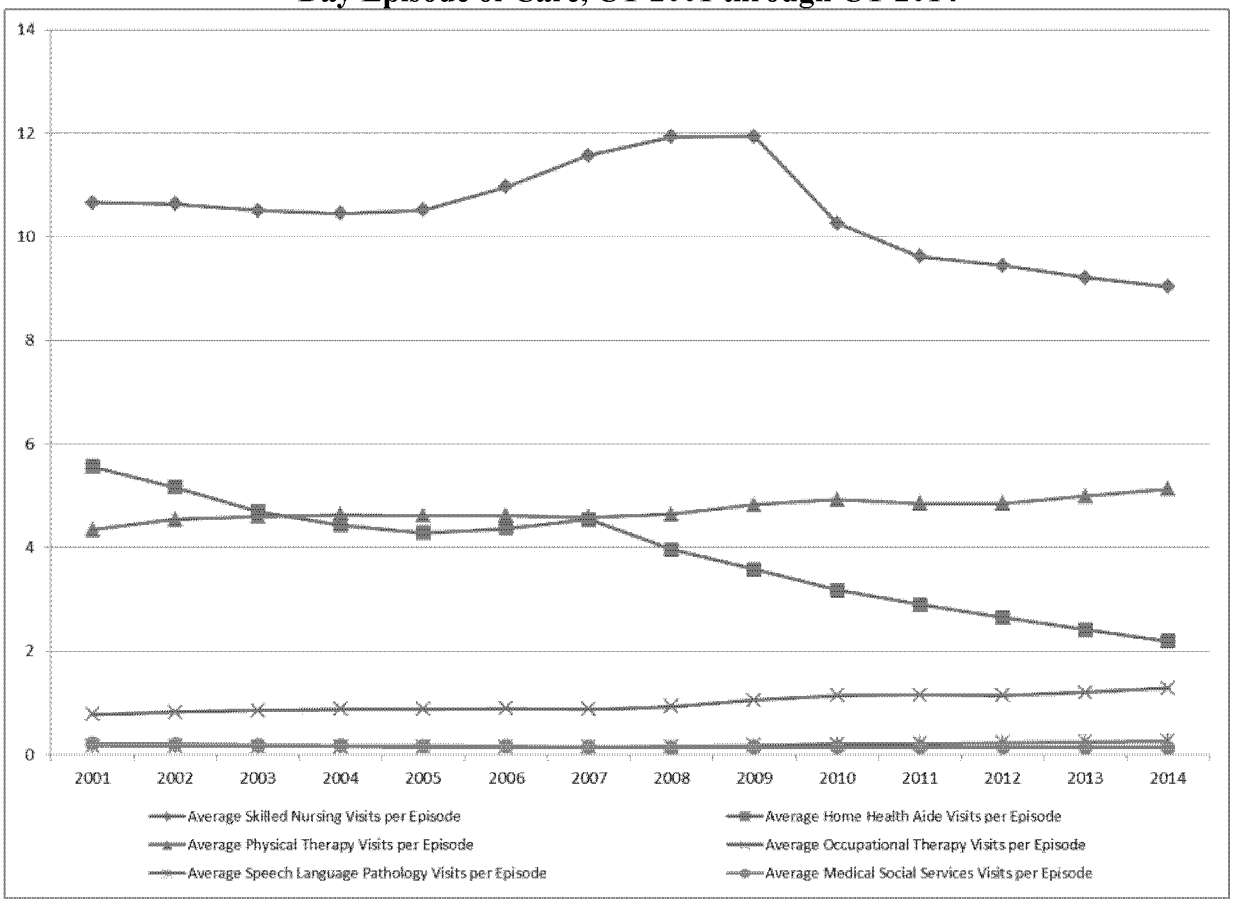
Figure 1: Average Total Number of Visits and Average Payment per Visit for a Medicare Home Health 60-Day Episode of Care, CY 2001 through CY 2014



Source: National claims history (NCH) data obtained from Chronic Condition Warehouse (CCW) - Accessed on May 21, 2014.

Note(s): These results exclude LUPA episodes, but include episodes from outlying areas (outside of 50 States and District of Columbia). Only episodes with a through date in the year specified are included. Episodes with a claim frequency code equal to "0" ("Non-payment/zero claims") and "2" ("Interim - first claim") are excluded. If a beneficiary is treated by providers from multiple states within a year the beneficiary is counted within each state's unique number of beneficiaries served.

Figure 2: Average Number of Visits by Discipline Type for a Medicare Home Health 60-Day Episode of Care, CY 2001 through CY 2014



Source: National claims history (NCH) data obtained from Chronic Condition Warehouse (CCW) - Accessed on May 21, 2014.

Note(s): These results exclude LUPA episodes, but include episodes from outlying areas (outside of 50 States and District of Columbia). Only episodes with a through date in the year specified are included. Episodes with a claim frequency code equal to "0" ("Non-payment/zero claims") and "2" ("Interim - first claim") are excluded. If a beneficiary is treated by providers from multiple states within a year the beneficiary is counted within each state's unique number of beneficiaries served.

We will continue to monitor for potential impacts due to rebasing adjustments required by section 3131(a) of the Affordable Care Act and other policy changes in the future. Independent effects of any one policy may be difficult to discern in years where multiple policy changes occur in any given year.

B. CY 2016 HH PPS Case-Mix Weights and Proposed Reduction to the National, Standardized 60-Day Episode Payment Rate To Account for Nominal Case-Mix Growth

1. CY 2016 HH PPS Case-Mix Weights

For CY 2014, as part of the rebasing effort mandated by the Affordable Care Act, we reset the HH PPS case-mix weights, lowering the average case-mix weight to 1.0000. To lower the HH PPS case-mix weights to 1.0000, each HH PPS case-mix weight was decreased by the same factor (1.3464), thereby maintaining the same relative values between the weights. This ''resetting'' of the HH PPS case-mix weights was done in a budget neutral manner by inflating the national, standardized 60-day episode rate by the same factor (1.3464) that was used to decrease the weights. For CY 2015, we finalized a policy to annually recalibrate the HH PPS case-mix weights—adjusting the weights relative to one another—using the most current, complete data available. To recalibrate the HH PPS case-mix weights for CY 2016, we propose to use the same methodology finalized in the CY 2008 HH PPS final rule (72 FR 49762), the CY 2012 HH PPS final rule (76 FR 68526), and the CY 2015 HH PPS final rule (79 FR 66032). Annual recalibration of the HH PPS case-mix weights ensures that the case-mix weights reflect, as accurately as possible, current home health resource use and changes in utilization patterns.

To generate the proposed CY 2016 HH PPS case-mix weights, we used CY 2014 home health claims data (as of December 31, 2014) with linked OASIS data. These data are the most current and complete data available at this time. We will use CY 2014 home health claims data (as of June 30, 2015) with linked OASIS data to generate the CY 2016 HH PPS case-mix weights in the CY 2016 HH PPS final rule. The process

we used to calculate the HH PPS case-mix weights are outlined below.

Step 1: Re-estimate the four-equation model to determine the clinical and functional points for an episode using wage-weighted minutes of care as our dependent variable for resource use. The wage-weighted minutes of care are determined using the CY 2013 Bureau of Labor Statistics national hourly wage plus fringe rates for the six home health disciplines and the minutes per visit from the claim. The points for each of the variables for each leg of the model, updated with CY 2014 data, are shown in Table 6. The points for the clinical variables are added together to determine an episode's clinical score. The points for the functional variables are added together to determine an episode's functional score.

TABLE 6—CASE-MIX ADJUSTMENT VARIABLES AND SCORES

	Episode number within sequence of adjacent episodes	1 or 2	1 or 2	3+	3+
	Therapy visits	0–13	14+	0–13	14+
	EQUATION:	*1*	*2*	*3*	*4*
	CLINICAL DIMENSION				
1	Primary or Other Diagnosis = Blindness/Low Vision				
2	Primary or Other Diagnosis = Blood disorders		6		2
3	Primary or Other Diagnosis = Cancer, selected benign neoplasms		7		7
4	Primary Diagnosis = Diabetes		7		4
5	Other Diagnosis = Diabetes	1			
6	Primary or Other Diagnosis = Dysphagia *AND* Primary or Other Diagnosis = Neuro 3—Stroke	3	15	1	8
7	Primary or Other Diagnosis = Dysphagia *AND* M1030 (Therapy at home) = 3 (Enteral)	1	9	1	9
8	Primary or Other Diagnosis = Gastrointestinal disorders				
9	Primary or Other Diagnosis = Gastrointestinal disorders *AND* M1630 (ostomy) = 1 or 2		6		6
10	Primary or Other Diagnosis = Gastrointestinal disorders *AND* Primary or Other Diagnosis = Neuro 1—Brain disorders and paralysis, *OR* Neuro 2—Peripheral neurological disorders, *OR* Neuro 3—Stroke, *OR* Neuro 4—Multiple Sclerosis				
11	Primary or Other Diagnosis = Heart Disease OR Hypertension	1			
12	Primary Diagnosis = Neuro 1—Brain disorders and paralysis	3	11	7	11
13	Primary or Other Diagnosis = Neuro 1—Brain disorders and paralysis *AND* M1840 (Toilet transfer) = 2 or more		2		2
14	Primary or Other Diagnosis = Neuro 1—Brain disorders and paralysis *OR* Neuro 2—Peripheral neurological disorders. *AND* M1810 or M1820 (Dressing upper or lower body) = 1, 2, or 3	2	7	1	5
15	Primary or Other Diagnosis = Neuro 3—Stroke	3	9	2	2
16	Primary or Other Diagnosis = Neuro 3—Stroke *AND* M1810 or M1820 (Dressing upper or lower body) = 1, 2, or 3		4		4
17	Primary or Other Diagnosis = Neuro 3—Stroke *AND* M1860 (Ambulation) = 4 or more				
18	Primary or Other Diagnosis = Neuro 4—Multiple Sclerosis *AND AT LEAST ONE OF THE FOLLOWING:*. M1830 (Bathing) = 2 or more *OR* M1840 (Toilet transfer) = 2 or more *OR* M1850 (Transferring) = 2 or more *OR* M1860 (Ambulation) = 4 or more	3	10	7	10
19	Primary or Other Diagnosis = Ortho 1—Leg Disorders or Gait Disorders. *AND* M1324 (most problematic pressure ulcer stage) = 1, 2, 3 or 4	8	1	8	1
20	Primary or Other Diagnosis = Ortho 1—Leg OR Ortho 2—Other orthopedic disorders. *AND* M1030 (Therapy at home) = 1 (IV/Infusion) or 2 (Parenteral)	3		3	6
21	Primary or Other Diagnosis = Psych 1—Affective and other psychoses, depression.				
22	Primary or Other Diagnosis = Psych 2—Degenerative and other organic psychiatric disorders.				
23	Primary or Other Diagnosis = Pulmonary disorders				
24	Primary or Other Diagnosis = Pulmonary disorders *AND* M1860 (Ambulation) = 1 or more.				

TABLE 6—CASE-MIX ADJUSTMENT VARIABLES AND SCORES—Continued

25	Primary Diagnosis = Skin 1—Traumatic wounds, burns, and post-operative complications.	4	19	8	19
26	Other Diagnosis = Skin 1—Traumatic wounds, burns, post-operative complications.	6	15	8	13
27	Primary or Other Diagnosis = Skin 1—Traumatic wounds, burns, and post-operative complications *OR* Skin 2—Ulcers and other skin conditions. *AND* M1030 (Therapy at home) = 1 (IV/Infusion) or 2 (Parenteral)	3	.....	.....	.....
28	Primary or Other Diagnosis = Skin 2—Ulcers and other skin conditions.	2	17	8	17
29	Primary or Other Diagnosis = Tracheostomy	2	16	2	16
30	Primary or Other Diagnosis = Urostomy/Cystostomy	.....	19	.....	11
31	M1030 (Therapy at home) = 1 (IV/Infusion) or 2 (Parenteral)	1	18	6	14
32	M1030 (Therapy at home) = 3 (Enteral)	.....	14	.....	5
33	M1200 (Vision) = 1 or more	.....	.....	.....	.....
34	M1242 (Pain) = 3 or 4	2	.....	1	.....
35	M1308 = Two or more pressure ulcers at stage 3 or 4	5	5	5	14
36	M1324 (Most problematic pressure ulcer stage) = 1 or 2	4	19	7	16
37	M1324 (Most problematic pressure ulcer stage) = 3 or 4	8	32	11	26
38	M1334 (Stasis ulcer status) = 2	4	12	8	12
39	M1334 (Stasis ulcer status) = 3	7	17	10	17
40	M1342 (Surgical wound status) = 2	2	7	5	13
41	M1342 (Surgical wound status) = 3	1	7	5	7
42	M1400 (Dyspnea) = 2, 3, or 4	.....	1	.....	1
43	M1620 (Bowel Incontinence) = 2 to 5	.....	4	.....	4
44	M1630 (Ostomy) = 1 or 2	4	12	2	7
45	M2030 (Injectable Drug Use) = 0, 1, 2, or 3	.....	.....	.....	.....
	FUNCTIONAL DIMENSION				
46	M1810 or M1820 (Dressing upper or lower body) = 1, 2, or 3	2	.....	1	.....
47	M1830 (Bathing) = 2 or more	6	2	5	.....
48	M1840 (Toilet transferring) = 2 or more	1	4	1	1
49	M1850 (Transferring) = 2 or more	3	2	1	.....
50	M1860 (Ambulation) = 1, 2 or 3	7	.....	4	.....
51	M1860 (Ambulation) = 4 or more	7	9	6	7

Source: CY 2014 Medicare claims data for episodes ending on or before December 31, 2014 (as of December 31, 2014) for which we had a linked OASIS assessment. LUPA episodes, outlier episodes, and episodes with SCIC or PEP adjustments were excluded.

Note(s): Points are additive; however, points may not be given for the same line item in the table more than once. Please see Medicare Home Health Diagnosis Coding guidance at: *http://www.cms.hhs.gov/HomeHealthPPS/03_coding&billing.asp* for definitions of primary and secondary diagnoses.

In updating the four-equation model for CY 2016, using 2014 data (the last update to the four-equation model for CY 2015 used 2013 data), there were few changes to the point values for the variables in the four-equation model. These relatively minor changes reflect the change in the relationship between the grouper variables and resource use between 2013 and 2014. The CY 2016 four-equation model resulted in 130 point-giving variables being used in the model (as compared to the 124 variables for the 2015 recalibration). There were nine variables that were added to the model and three variables that were dropped from the model due to the absence of additional resources associated with the variable. The points for 18 variables increased in the CY 2016 four-equation model and the points for 43 variables decreased in the CY 2016 4-equation model. There were 58 variables with the same point values.

Step 2: Re-defining the clinical and functional thresholds so they are reflective of the new points associated with the CY 2016 four-equation model. After estimating the points for each of the variables and summing the clinical and functional points for each episode, we look at the distribution of the clinical score and functional score, breaking the episodes into different steps. The categorizations for the steps are as follows:

- Step 1: First and second episodes, 0–13 therapy visits.
- Step 2.1: First and second episodes, 14–19 therapy visits.
- Step 2.2: Third episodes and beyond, 14–19 therapy visits.
- Step 3: Third episodes and beyond, 0–13 therapy visits.
- Step 4: Episodes with 20+ therapy visits

We then divide the distribution of the clinical score for episodes within a step such that a third of episodes are classified as low clinical score, a third of episodes are classified as medium clinical score, and a third of episodes are classified as high clinical score. The same approach is then done looking at the functional score. It was not always possible to evenly divide the episodes within each step into thirds due to many episodes being clustered around one particular score.[2] Also, we looked at the average resource use associated with each clinical and functional score and used that to guide where we placed our thresholds. We tried to group scores with similar average resource use within the same level (even if it meant that more or less than a third of episodes

[2] For Step 1, 54% of episodes were in the medium functional level (All with score 15).

For Step 2.1, 77.2% of episodes were in the low functional level (Most with score 2 and 4).

For Step 2.2, 67.1% of episodes were in the low functional level (All with score 0).

For Step 3, 60.9% of episodes were in the medium functional level (Most with score 10).

For Step 4, 49.8% of episodes were in the low functional level (Most with score 2).

were placed within a level). The new thresholds, based off of the CY 2016 four-equation model points are shown in Table 7.

TABLE 7—CY 2016 CLINICAL AND FUNCTIONAL THRESHOLDS

		1st and 2nd episodes		3rd+ episodes		All Episodes
		0 to 13 therapy visits	14 to 19 therapy visits	0 to 13 therapy visits	14 to 19 therapy visits	20+ therapy visits
Grouping Step:		1	2.1	3	2.2	4
Equation(s) used to calculate points: (see Table 6)		1	2	3	4	(2&4)
Dimension:	Severity Level:					
Clinical	C1	0 to 1	0	0	0 to 3	0 to 3
	C2	2 to 3	1 to 7	1	4 to 12	4 to 16
	C3	4+	8+	2+	13+	17+
Functional	F1	0 to 14	0 to 6	0 to 6	0	0 to 2
	F2	15	7 to 13	7 to10	1 to 7	3 to 6
	F3	16+	14+	11+	8+	7+

Step 3: Once the clinical and functional thresholds are determined and each episode is assigned a clinical and functional level, the payment regression is estimated with an episode's wage-weighted minutes of care as the dependent variable. Independent variables in the model are indicators for the step of the episode as well as the clinical and functional levels within each step of the episode. Like the four-equation model, the payment regression model is also estimated with robust standard errors that are clustered at the beneficiary level. Table 8 shows the regression coefficients for the variables in the payment regression model updated with CY 2014 data. The R-squared value for the payment regression model is 0.4790 (an increase from 0.4680 for the CY 2015 recalibration).

TABLE 8—PAYMENT REGRESSION MODEL

Variable Description	New payment regression coefficients
Step 1, Clinical Score Medium	$23.43
Step 1, Clinical Score High	57.50
Step 1, Functional Score Medium	73.18
Step 1, Functional Score High	110.39
Step 2.1, Clinical Score Medium	42.51
Step 2.1, Clinical Score High	163.27
Step 2.1, Functional Score Medium	34.24
Step 2.1, Functional Score High	88.01
Step 2.2, Clinical Score Medium	58.37
Step 2.2, Clinical Score High	210.67
Step 2.2, Functional Score Medium	10.64
Step 2.2, Functional Score High	65.24
Step 3, Clinical Score Medium	9.87
Step 3, Clinical Score High	89.22
Step 3, Functional Score Medium	53.47
Step 3, Functional Score High	83.07
Step 4, Clinical Score Medium	70.04
Step 4, Clinical Score High	231.22
Step 4, Functional Score Medium	14.07
Step 4, Functional Score High	63.20
Step 2.1, 1st and 2nd Episodes, 14 to 19 Therapy Visits	444.92
Step 2.2, 3rd+ Episodes, 14 to 19 Therapy Visits	485.03
Step 3, 3rd+ Episodes, 0–13 Therapy Visits	−73.86
Step 4, All Episodes, 20+ Therapy Visits	889.81
Intercept	378.68

Source: CY 2014 Medicare claims data for episodes ending on or before December 31, 2014 (as of December 31, 2014) for which we had a linked OASIS assessment.

Step 4: We use the coefficients from the payment regression model to predict each episode's wage-weighted minutes of care (resource use). We then divide these predicted values by the mean of the dependent variable (that is, the average wage-weighted minutes of care across all episodes used in the payment regression). This division constructs the weight for each episode, which is simply the ratio of the episode's predicted wage-weighted minutes of

care divided by the average wage-weighted minutes of care in the sample. Each episode is then aggregated into one of the 153 home health resource groups (HHRGs) and the ''raw'' weight for each HHRG was calculated as the average of the episode weights within the HHRG.

Step 5: The weights associated with 0 to 5 therapy visits are then increased by 3.75 percent, the weights associated with 14–15 therapy visits are decreased by 2.5 percent, and the weights associated with 20+ therapy visits are decreased by 5 percent. These adjustments to the case-mix weights were finalized in the CY 2012 HH PPS final rule (76 FR 68557) and were done to address MedPAC's concerns that the HH PPS overvalues therapy episodes and undervalues non-therapy episodes and to better aligned the case-mix weights with episode costs estimated from cost report data.[3]

Step 6: After the adjustments in step 5 are applied to the raw weights, the weights are further adjusted to create an increase in the payment weights for the therapy visit steps between the therapy thresholds. Weights with the same clinical severity level, functional severity level, and early/later episode status were grouped together. Then within those groups, the weights for each therapy step between thresholds are gradually increased. We do this by interpolating between the main thresholds on the model (from 0–5 to 14–15 therapy visits, and from 14–15 to 20+ therapy visits). We use a linear model to implement the interpolation so the payment weight increase for each step between the thresholds (such as the increase between 0–5 therapy visits and 6 therapy visits and the increase between 6 therapy visits and 7–9 therapy visits) are constant. This interpolation is the identical to the process finalized in the CY 2012 HH PPS final rule (76 FR 68555).

Step 7: The interpolated weights are then adjusted so that the average case-mix for the weights is equal to 1.0000.[4] This last step creates the CY 2016 case-mix weights shown in Table 9.

TABLE 9—CY 2016 CASE-MIX PAYMENT WEIGHTS

Payment group	Step (episode and/or therapy visit ranges)	Clinical and functional levels (1 = low; 2 = medium; 3= high)	CY 2016 case-mix weights
10111	1st and 2nd Episodes, 0 to 5 Therapy Visits	C1F1S1	0.5969
10112	1st and 2nd Episodes, 6 Therapy Visits	C1F1S2	0.7216
10113	1st and 2nd Episodes, 7 to 9 Therapy Visits	C1F1S3	0.8462
10114	1st and 2nd Episodes, 10 Therapy Visits	C1F1S4	0.9708
10115	1st and 2nd Episodes, 11 to 13 Therapy Visits	C1F1S5	1.0954
10121	1st and 2nd Episodes, 0 to 5 Therapy Visits	C1F2S1	1.2201
10122	1st and 2nd Episodes, 6 Therapy Visits	C1F2S2	1.4237
10123	1st and 2nd Episodes, 7 to 9 Therapy Visits	C1F2S3	1.6273
10124	1st and 2nd Episodes, 10 Therapy Visits	C1F2S4	0.7123
10125	1st and 2nd Episodes, 11 to 13 Therapy Visits	C1F2S5	0.8240
10131	1st and 2nd Episodes, 0 to 5 Therapy Visits	C1F3S1	0.9357
10132	1st and 2nd Episodes, 6 Therapy Visits	C1F3S2	1.0474
10133	1st and 2nd Episodes, 7 to 9 Therapy Visits	C1F3S3	1.1591
10134	1st and 2nd Episodes, 10 Therapy Visits	C1F3S4	1.2708
10135	1st and 2nd Episodes, 11 to 13 Therapy Visits	C1F3S5	1.4643
10211	1st and 2nd Episodes, 0 to 5 Therapy Visits	C2F1S1	1.6578
10212	1st and 2nd Episodes, 6 Therapy Visits	C2F1S2	0.7709
10213	1st and 2nd Episodes, 7 to 9 Therapy Visits	C2F1S3	0.8868
10214	1st and 2nd Episodes, 10 Therapy Visits	C2F1S4	1.0027
10215	1st and 2nd Episodes, 11 to 13 Therapy Visits	C2F1S5	1.1186
10221	1st and 2nd Episodes, 0 to 5 Therapy Visits	C2F2S1	1.2345
10222	1st and 2nd Episodes, 6 Therapy Visits	C2F2S2	1.3504
10223	1st and 2nd Episodes, 7 to 9 Therapy Visits	C2F2S3	1.5410
10224	1st and 2nd Episodes, 10 Therapy Visits	C2F2S4	1.7316
10225	1st and 2nd Episodes, 11 to 13 Therapy Visits	C2F2S5	0.6339
10231	1st and 2nd Episodes, 0 to 5 Therapy Visits	C2F3S1	0.7637
10232	1st and 2nd Episodes, 6 Therapy Visits	C2F3S2	0.8935
10233	1st and 2nd Episodes, 7 to 9 Therapy Visits	C2F3S3	1.0234
10234	1st and 2nd Episodes, 10 Therapy Visits	C2F3S4	1.1532
10235	1st and 2nd Episodes, 11 to 13 Therapy Visits	C2F3S5	1.2830
10311	1st and 2nd Episodes, 0 to 5 Therapy Visits	C3F1S1	1.4994
10312	1st and 2nd Episodes, 6 Therapy Visits	C3F1S2	1.7157
10313	1st and 2nd Episodes, 7 to 9 Therapy Visits	C3F1S3	0.7492
10314	1st and 2nd Episodes, 10 Therapy Visits	C3F1S4	0.8661
10315	1st and 2nd Episodes, 11 to 13 Therapy Visits	C3F1S5	0.9830
10321	1st and 2nd Episodes, 0 to 5 Therapy Visits	C3F2S1	1.0999
10322	1st and 2nd Episodes, 6 Therapy Visits	C3F2S2	1.2169
10323	1st and 2nd Episodes, 7 to 9 Therapy Visits	C3F2S3	1.3338
10324	1st and 2nd Episodes, 10 Therapy Visits	C3F2S4	1.5400
10325	1st and 2nd Episodes, 11 to 13 Therapy Visits	C3F2S5	1.7461
10331	1st and 2nd Episodes, 0 to 5 Therapy Visits	C3F3S1	0.8079
10332	1st and 2nd Episodes, 6 Therapy Visits	C3F3S2	0.9290
10333	1st and 2nd Episodes, 7 to 9 Therapy Visits	C3F3S3	1.0501

[3] Medicare Payment Advisory Commission (MedPAC*), Report to the Congress: Medicare Payment Policy*. March 2011, P. 176.

[4] When computing the average, we compute a weighted average, assigning a value of one to each normal episode and a value equal to the episode length divided by 60 for PEPs.

TABLE 9—CY 2016 CASE-MIX PAYMENT WEIGHTS—Continued

Payment group	Step (episode and/or therapy visit ranges)	Clinical and functional levels (1 = low; 2 = medium; 3= high)	CY 2016 case-mix weights
10334	1st and 2nd Episodes, 10 Therapy Visits	C3F3S4	1.1712
10335	1st and 2nd Episodes, 11 to 13 Therapy Visits	C3F3S5	1.2923
21111	1st and 2nd Episodes, 14 to 15 Therapy Visits	C1F1S1	1.4134
21112	1st and 2nd Episodes, 16 to 17 Therapy Visits	C1F1S2	1.6167
21113	1st and 2nd Episodes, 18 to 19 Therapy Visits	C1F1S3	1.8200
21121	1st and 2nd Episodes, 14 to 15 Therapy Visits	C1F2S1	0.6876
21122	1st and 2nd Episodes, 16 to 17 Therapy Visits	C1F2S2	0.8424
21123	1st and 2nd Episodes, 18 to 19 Therapy Visits	C1F2S3	0.9973
21131	1st and 2nd Episodes, 14 to 15 Therapy Visits	C1F3S1	1.1522
21132	1st and 2nd Episodes, 16 to 17 Therapy Visits	C1F3S2	1.3071
21133	1st and 2nd Episodes, 18 to 19 Therapy Visits	C1F3S3	1.4619
21211	1st and 2nd Episodes, 14 to 15 Therapy Visits	C2F1S1	1.6962
21212	1st and 2nd Episodes, 16 to 17 Therapy Visits	C2F1S2	1.9304
21213	1st and 2nd Episodes, 18 to 19 Therapy Visits	C2F1S3	0.8029
21221	1st and 2nd Episodes, 14 to 15 Therapy Visits	C2F2S1	0.9449
21222	1st and 2nd Episodes, 16 to 17 Therapy Visits	C2F2S2	1.0868
21223	1st and 2nd Episodes, 18 to 19 Therapy Visits	C2F2S3	1.2288
21231	1st and 2nd Episodes, 14 to 15 Therapy Visits	C2F3S1	1.3707
21232	1st and 2nd Episodes, 16 to 17 Therapy Visits	C2F3S2	1.5127
21233	1st and 2nd Episodes, 18 to 19 Therapy Visits	C2F3S3	1.7368
21311	1st and 2nd Episodes, 14 to 15 Therapy Visits	C3F1S1	1.9609
21312	1st and 2nd Episodes, 16 to 17 Therapy Visits	C3F1S2	0.8616
21313	1st and 2nd Episodes, 18 to 19 Therapy Visits	C3F1S3	1.0077
21321	1st and 2nd Episodes, 14 to 15 Therapy Visits	C3F2S1	1.1539
21322	1st and 2nd Episodes, 16 to 17 Therapy Visits	C3F2S2	1.3000
21323	1st and 2nd Episodes, 18 to 19 Therapy Visits	C3F2S3	1.4462
21331	1st and 2nd Episodes, 14 to 15 Therapy Visits	C3F3S1	1.5923
21332	1st and 2nd Episodes, 16 to 17 Therapy Visits	C3F3S2	1.8135
21333	1st and 2nd Episodes, 18 to 19 Therapy Visits	C3F3S3	2.0347
22111	3rd+ Episodes, 14 to 15 Therapy Visits	C1F1S1	0.4805
22112	3rd+ Episodes, 16 to 17 Therapy Visits	C1F1S2	0.6403
22113	3rd+ Episodes, 18 to 19 Therapy Visits	C1F1S3	0.8001
22121	3rd+ Episodes, 14 to 15 Therapy Visits	C1F2S1	0.9599
22122	3rd+ Episodes, 16 to 17 Therapy Visits	C1F2S2	1.1197
22123	3rd+ Episodes, 18 to 19 Therapy Visits	C1F2S3	1.2795
22131	3rd+ Episodes, 14 to 15 Therapy Visits	C1F3S1	1.4633
22132	3rd+ Episodes, 16 to 17 Therapy Visits	C1F3S2	1.6471
22133	3rd+ Episodes, 18 to 19 Therapy Visits	C1F3S3	1.8309
22211	3rd+ Episodes, 14 to 15 Therapy Visits	C2F1S1	0.5648
22212	3rd+ Episodes, 16 to 17 Therapy Visits	C2F1S2	0.7109
22213	3rd+ Episodes, 18 to 19 Therapy Visits	C2F1S3	0.8570
22221	3rd+ Episodes, 14 to 15 Therapy Visits	C2F2S1	1.0031
22222	3rd+ Episodes, 16 to 17 Therapy Visits	C2F2S2	1.1492
22223	3rd+ Episodes, 18 to 19 Therapy Visits	C2F2S3	1.2952
22231	3rd+ Episodes, 14 to 15 Therapy Visits	C2F3S1	1.4806
22232	3rd+ Episodes, 16 to 17 Therapy Visits	C2F3S2	1.6659
22233	3rd+ Episodes, 18 to 19 Therapy Visits	C2F3S3	1.8512
22311	3rd+ Episodes, 14 to 15 Therapy Visits	C3F1S1	0.6114
22312	3rd+ Episodes, 16 to 17 Therapy Visits	C3F1S2	0.7644
22313	3rd+ Episodes, 18 to 19 Therapy Visits	C3F1S3	0.9173
22321	3rd+ Episodes, 14 to 15 Therapy Visits	C3F2S1	1.0703
22322	3rd+ Episodes, 16 to 17 Therapy Visits	C3F2S2	1.2232
22323	3rd+ Episodes, 18 to 19 Therapy Visits	C3F2S3	1.3761
22331	3rd+ Episodes, 14 to 15 Therapy Visits	C3F3S1	1.5581
22332	3rd+ Episodes, 16 to 17 Therapy Visits	C3F3S2	1.7401
22333	3rd+ Episodes, 18 to 19 Therapy Visits	C3F3S3	1.9222
30111	3rd+ Episodes, 0 to 5 Therapy Visits	C1F1S1	0.4961
30112	3rd+ Episodes, 6 Therapy Visits	C1F1S2	0.6700
30113	3rd+ Episodes, 7 to 9 Therapy Visits	C1F1S3	0.8440
30114	3rd+ Episodes, 10 Therapy Visits	C1F1S4	1.0180
30115	3rd+ Episodes, 11 to 13 Therapy Visits	C1F1S5	1.1920
30121	3rd+ Episodes, 0 to 5 Therapy Visits	C1F2S1	1.3660
30122	3rd+ Episodes, 6 Therapy Visits	C1F2S2	1.5546
30123	3rd+ Episodes, 7 to 9 Therapy Visits	C1F2S3	1.7433
30124	3rd+ Episodes, 10 Therapy Visits	C1F2S4	1.9320
30125	3rd+ Episodes, 11 to 13 Therapy Visits	C1F2S5	0.5803
30131	3rd+ Episodes, 0 to 5 Therapy Visits	C1F3S1	0.7406
30132	3rd+ Episodes, 6 Therapy Visits	C1F3S2	0.9009

TABLE 9—CY 2016 CASE-MIX PAYMENT WEIGHTS—Continued

Payment group	Step (episode and/or therapy visit ranges)	Clinical and functional levels (1 = low; 2 = medium; 3= high)	CY 2016 case-mix weights
30133	3rd+ Episodes, 7 to 9 Therapy Visits	C1F3S3	1.0612
30134	3rd+ Episodes, 10 Therapy Visits	C1F3S4	1.2214
30135	3rd+ Episodes, 11 to 13 Therapy Visits	C1F3S5	1.3817
30211	3rd+ Episodes, 0 to 5 Therapy Visits	C2F1S1	1.5719
30212	3rd+ Episodes, 6 Therapy Visits	C2F1S2	1.7621
30213	3rd+ Episodes, 7 to 9 Therapy Visits	C2F1S3	1.9523
30214	3rd+ Episodes, 10 Therapy Visits	C2F1S4	0.6270
30215	3rd+ Episodes, 11 to 13 Therapy Visits	C2F1S5	0.7941
30221	3rd+ Episodes, 0 to 5 Therapy Visits	C2F2S1	0.9612
30222	3rd+ Episodes, 6 Therapy Visits	C2F2S2	1.1284
30223	3rd+ Episodes, 7 to 9 Therapy Visits	C2F2S3	1.2955
30224	3rd+ Episodes, 10 Therapy Visits	C2F2S4	1.4626
30225	3rd+ Episodes, 11 to 13 Therapy Visits	C2F2S5	1.6495
30231	3rd+ Episodes, 0 to 5 Therapy Visits	C2F3S1	1.8364
30232	3rd+ Episodes, 6 Therapy Visits	C2F3S2	2.0233
30233	3rd+ Episodes, 7 to 9 Therapy Visits	C2F3S3	0.6211
30234	3rd+ Episodes, 10 Therapy Visits	C2F3S4	0.8152
30235	3rd+ Episodes, 11 to 13 Therapy Visits	C2F3S5	1.0093
30311	3rd+ Episodes, 0 to 5 Therapy Visits	C3F1S1	1.2034
30312	3rd+ Episodes, 6 Therapy Visits	C3F1S2	1.3975
30313	3rd+ Episodes, 7 to 9 Therapy Visits	C3F1S3	1.5916
30314	3rd+ Episodes, 10 Therapy Visits	C3F1S4	1.7826
30315	3rd+ Episodes, 11 to 13 Therapy Visits	C3F1S5	1.9736
30321	3rd+ Episodes, 0 to 5 Therapy Visits	C3F2S1	2.1647
30322	3rd+ Episodes, 6 Therapy Visits	C3F2S2	0.7054
30323	3rd+ Episodes, 7 to 9 Therapy Visits	C3F2S3	0.8858
30324	3rd+ Episodes, 10 Therapy Visits	C3F2S4	1.0662
30325	3rd+ Episodes, 11 to 13 Therapy Visits	C3F2S5	1.2466
30331	3rd+ Episodes, 0 to 5 Therapy Visits	C3F3S1	1.4269
30332	3rd+ Episodes, 6 Therapy Visits	C3F3S2	1.6073
30333	3rd+ Episodes, 7 to 9 Therapy Visits	C3F3S3	1.7999
30334	3rd+ Episodes, 10 Therapy Visits	C3F3S4	1.9924
30335	3rd+ Episodes, 11 to 13 Therapy Visits	C3F3S5	2.1850
40111	All Episodes, 20+ Therapy Visits	C1F1S1	0.7521
40121	All Episodes, 20+ Therapy Visits	C1F2S1	0.9393
40131	All Episodes, 20+ Therapy Visits	C1F3S1	1.1265
40211	All Episodes, 20+ Therapy Visits	C2F1S1	1.3138
40221	All Episodes, 20+ Therapy Visits	C2F2S1	1.5010
40231	All Episodes, 20+ Therapy Visits	C2F3S1	1.6882
40311	All Episodes, 20+ Therapy Visits	C3F1S1	1.8774
40321	All Episodes, 20+ Therapy Visits	C3F2S1	2.0667
40331	All Episodes, 20+ Therapy Visits	C3F3S1	2.2559

To ensure the changes to the HH PPS case-mix weights are implemented in a budget neutral manner, we would apply a case-mix budget neutrality factor to the CY 2016 national, standardized 60-day episode payment rate (*see* section III.B.1. of this proposed rule). The case-mix budget neutrality factor is calculated as the ratio of total payments when the CY 2016 HH PPS case-mix weights (developed using CY 2014 claims data) are applied to CY 2014 utilization (claims) data to total payments when CY 2015 HH PPS case-mix weights (developed using CY 2013 claims data) are applied to CY 2014 utilization data. This produces a case-mix budget neutrality factor for CY 2016 of 1.0141, based on CY 2014 claims data as of December 31, 2014.

2. Proposed Reduction to the National, Standardized 60-Day Episode Payment Rate To Account for Nominal Case-Mix Growth

Section 1895(b)(3)(B)(iv) of the Act gives the Secretary the authority to implement payment reductions for nominal case-mix growth (that is, case-mix growth unrelated to changes in patient acuity). Previously, we accounted for nominal case-mix growth through case-mix reductions implemented from 2008 through 2013 (76 FR 68528–68543). As stated in the 2013 final rule, the goal of the reductions for nominal case-mix growth is to better align payment with real changes in patient severity (77 FR 67077). Our analysis of data from CY 2000 through CY 2010 found that only 15.97 percent of the total case-mix change was real and 84.03 percent of total case-mix change was nominal (77 FR 41553). In the CY 2015 HH PPS final rule (79 FR 66032), we estimated that total case-mix increased by 2.76 percent between CY 2012 and CY 2013 and of that amount, we estimated that 2.32 percent was a result of nominal case-mix growth ($2.76 - (2.76 \times 0.1597)$). However, for 2015, we did not implement a reduction to the 2015 national, standardized 60-day episode payment amount to account for nominal case-mix growth, but stated that we would continue to monitor case-mix growth and may consider proposing nominal case-mix reductions in the future. Since the publication of the CY 2015 HH PPS final rule (79 FR 66032),

MedPAC reported on their assessment of the impact of the mandated rebasing adjustments on quality of and beneficiary access to home health care as required by section 3131(a) of the Affordable Care Act. As noted in section III.A.2 of this proposed rule, MedPAC concluded that quality of care and beneficiary access to care are unlikely to be negatively affected by the rebasing adjustments. We further estimate that case-mix increased by an additional 1.41 percent between CY 2013 and CY 2014 (as evidenced by the budget neutrality factor of 1.0141 percent described in section III.B.1 above). In applying the 15.97 percent estimate of real case-mix growth to the total estimated case-mix growth from CY 2013 to CY 2014 (1.41 percent), we estimate that case-mix increased by 1.18 percent ($1.41 - (1.41 \times 0.1597)$) as a result of nominal case-mix growth (that is, case-mix growth unrelated to changes in patient acuity). Given the observed nominal case-mix growth of 2.32 percent in 2013 and 1.18 percent in 2014, the reduction to offset the nominal case-mix growth for these 2 years would be 3.41 percent ($1 - 1/(1.0232 \times 1.0118) = 0.0341$).

We are proposing to implement this 3.41 percent reduction in equal increments over 2 years. Specifically, in addition to continuing our third year of implementation of the rebasing adjustments required under section 3131(a) of the Affordable Care Act, we are proposing to apply a 1.72 percent ($1 - 1/(1.0232 \times 1.0118)^{1/2} = 1.72$ percent) reduction to the national, standardized 60-day episode payment rate each year for 2 years, CY 2016 and CY 2017, under the ongoing authority of section 1895(b)(3)(B)(iv) of the Act. These reductions would adjust the national, standardized 60-day episode payment rate to account for nominal case-mix growth between CY 2012 and CY 2014 built into the episode payment rate through the 2015 and 2016 budget neutrality factors. The reductions will result in Medicare paying more accurately for the delivery of home health services and are separate from the rebasing adjustments finalized in CY 2014 under section 1895(b)(3)(A)(iii) of the Act, which were calculated using CY 2012 claims and CY 2011 HHA cost report data (which was the most current, complete data at the time of the CY 2014 HH PPS proposed and final rules). We will continue to monitor case-mix growth and may consider whether to propose additional nominal case-mix reductions in future rulemaking.

We invite comments on the proposed reduction to the national, standardized 60-day episode payment amount of 1.72 percent in CY 2016 and 1.72 percent in CY 2017 to account for nominal case-mix growth from CY 2012 through CY 2014 and the associated changes in the regulations text at § 484.220.

C. CY 2016 Home Health Rate Update

1. CY 2016 Home Health Market Basket Update

Section 1895(b)(3)(B) of the Act requires that the standard prospective payment amounts for CY 2015 be increased by a factor equal to the applicable HH market basket update for those HHAs that submit quality data as required by the Secretary. The home health market basket was rebased and revised in CY 2013. A detailed description of how we derive the HHA market basket is available in the CY 2013 HH PPS final rule (77 FR 67080-67090).

Section 3401(e) of the Affordable Care Act, adding new section 1895(b)(3)(B)(vi) to the Act, requires that, in CY 2015 (and in subsequent calendar years), the market basket percentage under the HHA prospective payment system as described in section 1895(b)(3)(B) of the Act be annually adjusted by changes in economy-wide productivity. The statute defines the productivity adjustment, described in section 1886(b)(3)(B)(xi)(II) of the Act, to be equal to the 10-year moving average of change in annual economy-wide private nonfarm business multifactor productivity (MFP) (as projected by the Secretary for the 10-year period ending with the applicable fiscal year, calendar year, cost reporting period, or other annual period) (the ''MFP adjustment''). The Bureau of Labor Statistics (BLS) is the agency that publishes the official measure of private nonfarm business MFP. Please see *http://www.bls.gov/mfp* to obtain the BLS historical published MFP data. We note that the proposed methodology for calculating and applying the MFP adjustment to the HHA payment update is similar to the methodology used in other Medicare provider payment systems as required by section 3401 of the Affordable Care Act.

Multifactor productivity is derived by subtracting the contribution of labor and capital input growth from output growth. The projections of the components of MFP are currently produced by IGI, a nationally recognized economic forecasting firm with which CMS contracts to forecast the components of the market basket and MFP. As described in the CY 2015 HH PPS proposed rule (79 FR 38384 through 38386), in order to generate a forecast of MFP, IGI replicated the MFP measure calculated by the BLS using a series of proxy variables derived from IGI's U.S. macroeconomic models. In the CY 2015 HH PPS proposed rule, we identified each of the major MFP component series employed by the BLS to measure MFP as well as provided the corresponding concepts determined to be the best available proxies for the BLS series.

Beginning with the CY 2016 rulemaking cycle, the MFP adjustment is calculated using a revised series developed by IGI to proxy the aggregate capital inputs. Specifically, IGI has replaced the Real Effective Capital Stock used for Full Employment GDP with a forecast of BLS aggregate capital inputs recently developed by IGI using a regression model. This series provides a better fit to the BLS capital inputs as measured by the differences between the actual BLS capital input growth rates and the estimated model growth rates over the historical time period. Therefore, we are using IGI's most recent forecast of the BLS capital inputs series in the MFP calculations beginning with the CY 2016 rulemaking cycle. A complete description of the MFP projection methodology is available on our Web site at *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.html.* Although we discuss the IGI changes to the MFP proxy series in this proposed rule, in the future, when IGI makes changes to the MFP methodology, we will announce them on our Web site rather than in the annual rulemaking.

Using IGI's first quarter 2015 forecast, the MFP adjustment for CY 2016 (the 10-year moving average of MFP for the period ending CY 2016) is projected to be 0.6 percent. Thus, in accordance with section 1895(b)(3)(B)(iii) of the Act, we propose to base the CY 2016 market basket update, which is used to determine the applicable percentage increase for the HH payments, on the most recent estimate of the proposed 2010-based HH market basket (currently estimated to be 2.9 percent based on IGI's first quarter 2015 forecast). We propose to then reduce this percentage increase by the current estimate of the MFP adjustment for CY 2016 of 0.6 percentage point (the 10-year moving average of MFP for the period ending CY 2016 based on IGI's first quarter 2015 forecast), in accordance with 1895(b)(3)(B)(vi). Therefore, the current estimate of the CY 2016 HH update is 2.3 percent (2.9 percent market basket update, less 0.6 percentage point MFP adjustment). Furthermore, we note that if more recent data are subsequently

available (for example, a more recent estimate of the market basket and MFP adjustment), we would use such data to determine the CY 2016 market basket update and MFP adjustment in the final rule.

Section 1895(b)(3)(B) of the Act requires that the home health update be decreased by 2 percentage points for those HHAs that do not submit quality data as required by the Secretary. For HHAs that do not submit the required quality data for CY 2016, the home health update would be 0.3 percent (2.3 percent minus 2 percentage points).

2. CY 2016 Home Health Wage Index

a. Background

Sections 1895(b)(4)(A)(ii) and (b)(4)(C) of the Act require the Secretary to provide appropriate adjustments to the proportion of the payment amount under the HH PPS that account for area wage differences, using adjustment factors that reflect the relative level of wages and wage-related costs applicable to the furnishing of HH services. Since the inception of the HH PPS, we have used inpatient hospital wage data in developing a wage index to be applied to HH payments. We propose to continue this practice for CY 2016, as we continue to believe that, in the absence of HH-specific wage data, using inpatient hospital wage data is appropriate and reasonable for the HH PPS. Specifically, we propose to continue to use the pre-floor, pre-reclassified hospital wage index as the wage adjustment to the labor portion of the HH PPS rates. For CY 2016, the updated wage data are for hospital cost reporting periods beginning on or after October 1, 2011 and before October 1, 2012 (FY 2012 cost report data).

We would apply the appropriate wage index value to the labor portion of the HH PPS rates based on the site of service for the beneficiary (defined by section 1861(m) of the Act as the beneficiary's place of residence). Previously, we determined each HHA's labor market area based on definitions of metropolitan statistical areas (MSAs) issued by the Office of Management and Budget (OMB). In the CY 2006 HH PPS final rule (70 FR 68132), we adopted revised labor market area definitions as discussed in the OMB Bulletin No. 03–04 (June 6, 2003). This bulletin announced revised definitions for MSAs and the creation of micropolitan statistical areas and core-based statistical areas (CBSAs). The bulletin is available online at *www.whitehouse.gov/omb/bulletins/b03-04.html.* In adopting the CBSA geographic designations, we provided a one-year transition in CY 2006 with a blended wage index for all sites of service. For CY 2006, the wage index for each geographic area consisted of a blend of 50 percent of the CY 2006 MSA-based wage index and 50 percent of the CY 2006 CBSA-based wage index. We referred to the blended wage index as the CY 2006 HH PPS transition wage index. As discussed in the CY 2006 HH PPS final rule (70 FR 68132), since the expiration of this one-year transition on December 31, 2006, we have used the full CBSA-based wage index values.

In this proposed rule, we propose to continue to use the same methodology discussed in the CY 2007 HH PPS final rule (71 FR 65884) to address those geographic areas in which there are no inpatient hospitals, and thus, no hospital wage data on which to base the calculation of the CY 2015 HH PPS wage index. For rural areas that do not have inpatient hospitals, we would use the average wage index from all contiguous CBSAs as a reasonable proxy. For FY 2016, there are no rural geographic areas without hospitals for which we would apply this policy. For rural Puerto Rico, we would not apply this methodology due to the distinct economic circumstances that exist there (for example, due to the close proximity to one another of almost all of Puerto Rico's various urban and non-urban areas, this methodology would produce a wage index for rural Puerto Rico that is higher than that in half of its urban areas). Instead, we would continue to use the most recent wage index previously available for that area. For urban areas without inpatient hospitals, we would use the average wage index of all urban areas within the state as a reasonable proxy for the wage index for that CBSA. For CY 2016, the only urban area without inpatient hospital wage data is Hinesville, GA (CBSA 25980).

b. Update

On February 28, 2013, OMB issued Bulletin No. 13–01, announcing revisions to the delineations of MSAs, Micropolitan Statistical Areas, and CBSAs, and guidance on uses of the delineation of these areas. This bulletin is available online at *http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b-13-01.pdf.* This bulletin states that it ''provides the delineations of all Metropolitan Statistical Areas, Metropolitan Divisions, Micropolitan Statistical Areas, Combined Statistical Areas, and New England City and Town Areas in the United States and Puerto Rico based on the standards published on June 28, 2010, in the **Federal Register** (75 FR 37246–37252) and Census Bureau data.''

While the revisions OMB published on February 28, 2013 are not as sweeping as the changes made when we adopted the CBSA geographic designations for CY 2006, the February 28, 2013 bulletin does contain a number of significant changes. For example, there are new CBSAs, urban counties that have become rural, rural counties that have become urban, and existing CBSAs that have been split apart.

In the CY 2015 HH PPS final rule (79 FR 66085 through 66087), we finalized changes to the HH PPS wage index based on the newest OMB delineations, as described in OMB Bulletin No. 13–01, beginning in CY 2015, including a one-year transition with a blended wage index for CY 2015. Because the one-year transition period expires at the end of CY 2015, the proposed HH PPS wage index for CY 2016 is fully based on the revised OMB delineations adopted in CY 2015. The proposed CY 2016 wage index is available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HomeHealthPPS/Home-Health-Prospective-Payment-System-Regulations-and-Notices.html.*

3. CY 2016 Annual Payment Update

a. Background

The Medicare HH PPS has been in effect since October 1, 2000. As set forth in the July 3, 2000 final rule (65 FR 41128), the base unit of payment under the Medicare HH PPS is a national, standardized 60-day episode payment rate. As set forth in 42 CFR 484.220, we adjust the national, standardized 60-day episode payment rate by a case-mix relative weight and a wage index value based on the site of service for the beneficiary.

To provide appropriate adjustments to the proportion of the payment amount under the HH PPS to account for area wage differences, we apply the appropriate wage index value to the labor portion of the HH PPS rates. The labor-related share of the case-mix adjusted 60-day episode rate would continue to be 78.535 percent and the non-labor-related share would continue to be 21.465 percent as set out in the CY 2013 HH PPS final rule (77 FR 67068). The CY 2016 HH PPS rates would use the same case-mix methodology as set forth in the CY 2008 HH PPS final rule with comment period (72 FR 49762) and would be adjusted as described in section III.C. of this rule. The following are the steps we take to compute the case-mix and wage-adjusted 60-day episode rate:

1. Multiply the national 60-day episode rate by the patient's applicable case-mix weight.

2. Divide the case-mix adjusted amount into a labor (78.535 percent) and a non-labor portion (21.465 percent).

3. Multiply the labor portion by the applicable wage index based on the site of service of the beneficiary.

4. Add the wage-adjusted portion to the non-labor portion, yielding the case-mix and wage adjusted 60-day episode rate, subject to any additional applicable adjustments.

In accordance with section 1895(b)(3)(B) of the Act, this document constitutes the annual update of the HH PPS rates. Section 484.225 sets forth the specific annual percentage update methodology. In accordance with § 484.225(i), for a HHA that does not submit HH quality data, as specified by the Secretary, the unadjusted national prospective 60-day episode rate is equal to the rate for the previous calendar year increased by the applicable HH market basket index amount minus two percentage points. Any reduction of the percentage change would apply only to the calendar year involved and would not be considered in computing the prospective payment amount for a subsequent calendar year.

Medicare pays the national, standardized 60-day case-mix and wage-adjusted episode payment on a split percentage payment approach. The split percentage payment approach includes an initial percentage payment and a final percentage payment as set forth in § 484.205(b)(1) and (b)(2). We may base the initial percentage payment on the submission of a request for anticipated payment (RAP) and the final percentage payment on the submission of the claim for the episode, as discussed in § 409.43. The claim for the episode that the HHA submits for the final percentage payment determines the total payment amount for the episode and whether we make an applicable adjustment to the 60-day case-mix and wage-adjusted episode payment. The end date of the 60-day episode as reported on the claim determines which calendar year rates Medicare would use to pay the claim.

We may also adjust the 60-day case-mix and wage-adjusted episode payment based on the information submitted on the claim to reflect the following:

- A low-utilization payment adjustment (LUPA) is provided on a per-visit basis as set forth in § 484.205(c) and § 484.230.
- A partial episode payment (PEP) adjustment as set forth in § 484.205(d) and § 484.235.
- An outlier payment as set forth in § 484.205(e) and § 484.240.

b. Proposed CY 2016 National, Standardized 60-Day Episode Payment Rate

Section 1895(3)(A)(i) of the Act required that the 60-day episode base rate and other applicable amounts be standardized in a manner that eliminates the effects of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner. To determine the CY 2016 national, standardized 60-day episode payment rate, we would apply a wage index standardization factor, a case-mix budget neutrality factor described in section III.B.1, a nominal case-mix growth adjustment described in section III.B.2, the rebasing adjustment described in section II.C, and the MFP-adjusted home health market basket update discussed in section III.C.1 of this proposed rule.

To calculate the wage index standardization factor, henceforth referred to as the wage index budget neutrality factor, we simulated total payments for non-LUPA episodes using the 2016 wage index and compared it to our simulation of total payments for non-LUPA episodes using the 2015 wage index. By dividing the total payments for non-LUPA episodes using the 2016 wage index by the total payments for non-LUPA episodes using the 2015 wage index, we obtain a wage index budget neutrality factor of 1.0006. We would apply the wage index budget neutrality factor of 1.0006 to the CY 2016 national, standardized 60-day episode rate.

As discussed in section III.B.1 of this proposed rule, to ensure the changes to the case-mix weights are implemented in a budget neutral manner, we would apply a case-mix weight budget neutrality factor to the CY 2016 national, standardized 60-day episode payment rate. The case-mix weight budget neutrality factor is calculated as the ratio of total payments when CY 2016 case-mix weights are applied to CY 2014 utilization (claims) data to total payments when CY 2015 case-mix weights are applied to CY 2014 utilization data. The case-mix budget neutrality factor for CY 2016 would be 1.0141 as described in section III.B.1 of this proposed rule.

Next, as discussed in section III.B.2 of this proposed rule, we would apply a reduction of 1.72 percent to the national, standardized 60-day episode payment rate in CY 2016 to account for nominal case-mix growth between CY 2012 and CY 2014. Then, we would apply the −$80.95 rebasing adjustment finalized in the CY 2014 HH PPS final rule (78 FR 72256) and discussed in section II.C. Lastly, we would update the payment rates by the CY 2016 HH payment update percentage of 2.3 percent (MFP-adjusted home health market basket update) as described in section III.C.1 of this proposed rule. The CY 2016 national, standardized 60-day episode payment rate is calculated in Table 10.

TABLE 10—CY 2016 60-DAY NATIONAL, STANDARDIZED 60-DAY EPISODE PAYMENT AMOUNT

CY 2015 National, standardized 60-day episode payment	Wage index budget neutrality factor	Case-mix weights budget neutrality factor	Nominal case-mix growth adjustment (1 − 0.0172)	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage	CY 2016 National, standardized 60-day episode payment
$2,961.38	× 1.0006	× 1.0141	× 0.9828	−$80.95	× 1.023	$2,938.37

The CY 2016 national, standardized 60-day episode payment rate for an HHA that does not submit the required quality data is updated by the CY 2016 HH payment update (2.3 percent) minus 2 percentage points and is shown in Table 11.

TABLE 11—FOR HHAS THAT DO NOT SUBMIT THE QUALITY DATA—CY 2015 NATIONAL, STANDARDIZED 60-DAY EPISODE PAYMENT AMOUNT

CY 2015 National, standardized 60-day episode payment	Wage index budget neutrality factor	Case-mix weights budget neutrality factor	Nominal case-mix growth adjustment (1 − 0.0172)	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage minus 2 percentage points	CY 2016 National, standardized 60-day episode payment
$2,961.38	× 1.0006	× 1.0141	× 0.9828	−$80.95	× 1.003	$2,880.92

c. CY 2016 National Per-Visit Rates

The national per-visit rates are used to pay LUPAs (episodes with four or fewer visits) and are also used to compute imputed costs in outlier calculations. The per-visit rates are paid by type of visit or HH discipline. The six HH disciplines are as follows:

- Home health aide (HH aide);
- Medical Social Services (MSS);
- Occupational therapy (OT);
- Physical therapy (PT);
- Skilled nursing (SN); and
- Speech-language pathology (SLP).

To calculate the CY 2016 national per-visit rates, we start with the CY 2015 national per-visit rates. We then apply a wage index budget neutrality factor to ensure budget neutrality for LUPA per-visit payments and increase each of the six per-visit rates by the maximum rebasing adjustments described in section II.C. of this rule. We calculate the wage index budget neutrality factor by simulating total payments for LUPA episodes using the 2016 wage index and comparing it to simulated total payments for LUPA episodes using the 2015 wage index. By dividing the total payments for LUPA episodes using the 2016 wage index by the total payments for LUPA episodes using the 2015 wage index, we obtain a wage index budget neutrality factor of 1.0006. We would apply the wage index budget neutrality factor of 1.0006 to the CY 2016 national per-visit rates.

The LUPA per-visit rates are not calculated using case-mix weights. Therefore, there is no case-mix weights budget neutrality factor needed to ensure budget neutrality for LUPA payments. Finally, the per-visit rates for each discipline are updated by the CY 2016 HH payment update percentage of 2.3 percent. The national per-visit rates are adjusted by the wage index based on the site of service of the beneficiary. The per-visit payments for LUPAs are separate from the LUPA add-on payment amount, which is paid for episodes that occur as the only episode or initial episode in a sequence of adjacent episodes. The CY 2016 national per-visit rates are shown in Tables 12 and 13.

TABLE 12—CY 2016 NATIONAL PER-VISIT PAYMENT AMOUNTS FOR HHAS THAT DO SUBMIT THE REQUIRED QUALITY DATA

HH Discipline type	CY 2015 Per-visit payment	Wage index budget neutrality factor	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage	CY 2016 Per-visit payment
Home Health Aide	$57.89	× 1.0006	+ $1.79	× 1.023	$61.09
Medical Social Services	204.91	× 1.0006	+ 6.34	× 1.023	216.23
Occupational Therapy	140.70	× 1.0006	+ 4.35	× 1.023	148.47
Physical Therapy	139.75	× 1.0006	+ 4.32	× 1.023	147.47
Skilled Nursing	127.83	× 1.0006	+ 3.96	× 1.023	134.90
Speech-Language Pathology	151.88	× 1.0006	+ 4.70	× 1.023	160.27

The CY 2016 per-visit payment rates for an HHA that does not submit the required quality data are updated by the CY 2016 HH payment update (2.3 percent) minus 2 percentage points and is shown in Table 13.

TABLE 13—CY 2016 NATIONAL PER-VISIT PAYMENT AMOUNTS FOR HHAS THAT DO NOT SUBMIT THE REQUIRED QUALITY DATA

HH Discipline type	CY 2015 Per-visit rates	Wage index budget neutrality factor	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage minus 2 percentage points	CY 2016 Per-visit rates
Home Health Aide	$57.89	× 1.0006	+ $1.79	× 1.003	$59.89
Medical Social Services	204.91	× 1.0006	+ 6.34	× 1.003	212.01
Occupational Therapy	140.70	× 1.0006	+ 4.35	× 1.003	145.57
Physical Therapy	139.75	× 1.0006	+ 4.32	× 1.003	144.59
Skilled Nursing	127.83	× 1.0006	+ 3.96	× 1.003	132.26
Speech-Language Pathology	151.88	× 1.0006	+ 4.70	× 1.003	157.14

d. Low-Utilization Payment Adjustment (LUPA) Add-On Factors

LUPA episodes that occur as the only episode or as an initial episode in a sequence of adjacent episodes are adjusted by applying an additional amount to the LUPA payment before adjusting for area wage differences. In the CY 2014 HH PPS final rule, we changed the methodology for calculating the LUPA add-on amount by finalizing the use of three LUPA add-on factors: 1.8451 for SN; 1.6700 for PT; and 1.6266 for SLP (78 FR 72306). We multiply the per-visit payment amount for the first SN, PT, or SLP visit in LUPA episodes that occur as the only episode or an initial episode in a sequence of adjacent episodes by the appropriate factor to determine the LUPA add-on payment amount. For example, for LUPA episodes that occur as the only episode or an initial episode in a sequence of adjacent episodes, if the first skilled visit is SN, the payment for that visit would be $248.90 (1.8451 multiplied by $134.90), subject to area wage adjustment.

e. CY 2016 Non-Routine Medical Supply (NRS) Payment Rates

Payments for NRS are computed by multiplying the relative weight for a particular severity level by the NRS conversion factor. To determine the CY 2016 NRS conversion factor, we start with the 2015 NRS conversion factor ($53.23) and apply the −2.82 percent rebasing adjustment described in section II.C. of this rule (1 − 0.0282 = 0.9718). We then update the conversion factor by the CY 2016 HH payment update percentage (2.3 percent). We do not apply a standardization factor as the NRS payment amount calculated from the conversion factor is not wage or case-mix adjusted when the final claim payment amount is computed. The NRS conversion factor for CY 2016 is shown in Table 14.

TABLE 14—CY 2016 NRS CONVERSION FACTOR FOR HHAS THAT DO SUBMIT THE REQUIRED QUALITY DATA

CY 2015 NRS conversion factor	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage	CY 2016 NRS conversion factor
$53.23	× 0.9718	× 1.023	$52.92

Using the CY 2015 NRS conversion factor, the payment amounts for the six severity levels are shown in Table 15.

TABLE 15—CY 2016 NRS PAYMENT AMOUNTS FOR HHAS THAT DO SUBMIT THE REQUIRED QUALITY DATA

Severity level	Points (scoring)	Relative weight	CY 2016 NRS Payment amounts
1	0	0.2698	$14.28
2	1 to 14	0.9742	51.55
3	15 to 27	2.6712	141.36
4	28 to 48	3.9686	210.02
5	49 to 98	6.1198	323.86
6	99+	10.5254	557.00

For HHAs that do not submit the required quality data, we again begin with the CY 2015 NRS conversion factor ($53.23) and apply the −2.82 percent rebasing adjustment discussed in section II.C of this proposed rule (1 − 0.0282= 0.9718). We then update the NRS conversion factor by the CY 2016 HH payment update percentage (2.3 percent) minus 2 percentage points. The CY 2016 NRS conversion factor for HHAs that do not submit quality data is shown in Table 16.

TABLE 16—CY 2016 NRS CONVERSION FACTOR FOR HHAS THAT DO NOT SUBMIT THE REQUIRED QUALITY DATA

CY 2015 NRS Conversion factor	CY 2016 Rebasing adjustment	CY 2016 HH Payment update percentage minus 2 percentage points	CY 2016 NRS Conversion factor
$53.23	× 0.9718	× 1.003	$51.88

The payment amounts for the various severity levels based on the updated conversion factor for HHAs that do not submit quality data are calculated in Table 17.

TABLE 17—CY 2016 NRS PAYMENT AMOUNTS FOR HHAS THAT DO NOT SUBMIT THE REQUIRED QUALITY DATA

Severity level	Points (scoring)	Relative weight	CY 2016 NRS Payment amounts
1	0	0.2698	$14.00
2	1 to 14	0.9742	50.54
3	15 to 27	2.6712	138.58
4	28 to 48	3.9686	205.89
5	49 to 98	6.1198	317.50
6	99+	10.5254	546.06

f. Rural Add-On

Section 421(a) of the MMA required, for HH services furnished in a rural areas (as defined in section 1886(d)(2)(D) of the Act), for episodes or visits ending on or after April 1, 2004, and before April 1, 2005, that the Secretary increase the payment amount that otherwise would have been made under section 1895 of the Act for the services by 5 percent.

Section 5201 of the DRA amended section 421(a) of the MMA. The amended section 421(a) of the MMA required, for HH services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Act), on or after January 1, 2006 and before January 1, 2007, that the Secretary increase the payment amount otherwise made under section 1895 of the Act for those services by 5 percent.

Section 3131(c) of the Affordable Care Act amended section 421(a) of the MMA to provide an increase of 3 percent of the payment amount otherwise made under section 1895 of the Act for HH services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Act), for episodes and visits ending on or after April 1, 2010, and before January 1, 2016.

Section 210 of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114–10) amended section 421(a) of the MMA to extend the rural add-on by providing an increase of 3 percent of the payment amount otherwise made under section 1895 of the Act for HH services provided in a rural area (as defined in section 1886(d)(2)(D) of the Act), for episodes and visits ending before January 1, 2018.

Section 421 of the MMA, as amended, waives budget neutrality related to this provision, as the statute specifically states that the Secretary shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Act applicable to HH services furnished during a period to offset the increase in payments resulting in the application of this section of the statute.

For CY 2016, home health payment rates for services provided to beneficiaries in areas that are defined as rural under the OMB delineations would be increased by 3 percent as mandated by section 210 of the MACRA. The 3 percent rural add-on is applied to the national, standardized 60-day episode payment rate, national per visit rates, and NRS conversion factor when HH services are provided in rural (non-CBSA) areas. Refer to Tables 18 through 21 for these payment rates.

TABLE 18—CY 2016 PAYMENT AMOUNTS FOR 60-DAY EPISODES FOR SERVICES PROVIDED IN A RURAL AREA

For HHAs that DO submit quality data			For HHAs that DO NOT submit quality data		
CY 2016 National, standardized 60-day episode payment rate	Multiply by the 3 percent rural add-on	CY 2016 Rural national, standardized 60-day episode payment rate	CY 2016 National, standardized 60-day episode payment rate	Multiply by the 3 percent rural add-on	CY 2016 Rural national, standardized 60-day episode payment rate
$2,938.37	× 1.03	$3,026.52	$2,880.92	× 1.03	$2,967.35

TABLE 19—CY 2016 PER-VISIT AMOUNTS FOR SERVICES PROVIDED IN A RURAL AREA

HH Discipline type	For HHAs that DO submit quality data			For HHAs that DO NOT submit quality data		
	CY 2016 Per-visit rate	Multiply by the 3 percent rural add-on	CY 2016 Rural per-visit rates	CY 2016 Per-visit rate	Multiply by the 3 percent rural add-on	CY 2016 Rural per-visit rates
HH Aide	$61.09	× 1.03	$62.92	$59.89	× 1.03	$61.69
MSS	216.23	× 1.03	222.72	212.01	× 1.03	218.37
OT	148.47	× 1.03	152.92	145.57	× 1.03	149.94
PT	147.47	× 1.03	151.89	144.59	× 1.03	148.93
SN	134.90	× 1.03	138.95	132.26	× 1.03	136.23
SLP	160.27	× 1.03	165.08	157.14	× 1.03	161.85

TABLE 20—CY 2016 NRS CONVERSION FACTOR FOR SERVICES PROVIDED IN RURAL AREAS

For HHAs that DO submit quality data			For HHAs that DO NOT submit quality data		
CY 2016 Conversion factor	Multiply by the 3 percent rural add-on	CY 2016 Rural NRS conversion factor	CY 2016 Conversion factor	Multiply by the 3 percent rural add-on	CY 2016 Rural NRS conversion factor
$52.92	× 1.03	$54.51	$51.88	× 1.03	$53.44

TABLE 21—CY 2016 NRS PAYMENT AMOUNTS FOR SERVICES PROVIDED IN RURAL AREAS

Severity level	Points (scoring)	For HHAs that DO submit quality data (CY 2016 NRS conversion factor = $54.51		For HHAs that DO NOT submit quality data (CY 2016 NRS Conversion Factor = $53.44)	
		Relative weight	CY 2016 NRS Payment amounts for rural areas	Relative weight	CY 2016 NRS Payment amounts for rural areas
1	0	0.2698	$14.71	0.2698	$14.42
2	1 to 14	0.9742	53.10	0.9742	52.06
3	15 to 27	2.6712	145.61	2.6712	142.75
4	28 to 48	3.9686	216.33	3.9686	212.08
5	49 to 98	6.1198	333.59	6.1198	327.04
6	99+	10.5254	573.74	10.5254	562.48

D. Payments for High-Cost Outliers Under the HH PPS

1. Background

Section 1895(b)(5) of the Act allows for the provision of an addition or adjustment to the national, standardized 60-day case-mix and wage-adjusted episode payment amounts in the case of episodes that incur unusually high costs due to patient care needs. Prior to the enactment of the Affordable Care Act, section 1895(b)(5) of the Act stipulated that projected total outlier payments could not exceed 5 percent of total projected or estimated HH payments in a given year. In the July 3, 2000 Medicare Program; Prospective Payment System for Home Health Agencies final rule (65 FR 41188 through 41190), we described the method for determining outlier payments. Under this system, outlier payments are made for episodes whose estimated costs exceed a threshold amount for each HH Resource Group (HHRG). The episode's estimated cost is the sum of the national wage-adjusted per-visit payment amounts for all visits delivered during the episode. The outlier threshold for each case-mix group or Partial Episode Payment (PEP) adjustment is defined as the 60-day episode payment or PEP adjustment for that group plus a fixed-dollar loss (FDL) amount. The outlier payment is defined to be a proportion of the wage-adjusted estimated cost beyond the wage-adjusted threshold. The threshold amount is the sum of the wage and case-mix adjusted PPS episode amount and wage-adjusted FDL amount. The proportion of additional costs over the outlier threshold amount paid as outlier payments is referred to as the loss-sharing ratio.

In the CY 2010 HH PPS final rule (74 FR 58080 through 58087), we discussed excessive growth in outlier payments, primarily the result of unusually high outlier payments in a few areas of the country. Despite program integrity efforts associated with excessive outlier payments in targeted areas of the country, we discovered that outlier expenditures still exceeded the 5 percent target and, in the absence of corrective measures, would continue do to so. Consequently, we assessed the appropriateness of taking action to curb outlier abuse. To mitigate possible billing vulnerabilities associated with excessive outlier payments and adhere to our statutory limit on outlier payments, we adopted an outlier policy that included a 10 percent agency-level cap on outlier payments. This cap was implemented in concert with a reduced FDL ratio of 0.67. These policies resulted in a projected target outlier pool of approximately 2.5 percent. (The previous outlier pool was 5 percent of total HH expenditure). For CY 2010, we first returned the 5 percent held for the previous target outlier pool to the national, standardized 60-day episode rates, the national per-visit rates, the LUPA add-on payment amount, and the NRS conversion factor. Then, we reduced the CY 2010 rates by 2.5 percent to account for the new outlier pool of 2.5 percent. This outlier policy was adopted for CY 2010 only.

As we noted in the CY 2011 HH PPS final rule (75 FR 70397 through 70399), section 3131(b)(1) of the Affordable Care Act amended section 1895(b)(3)(C) of the Act, and requires the Secretary to reduce the HH PPS payment rates such that aggregate HH PPS payments are reduced by 5 percent. In addition, section 3131(b)(2) of the Affordable Care Act amended section 1895(b)(5) of the Act by re-designating the existing language as section 1895(b)(5)(A) of the Act, and revising it to state that the Secretary may provide for an addition or adjustment to the payment amount for outlier episodes because of their unusual variation in the type or amount of medically necessary care. The total amount of the additional payments or payment adjustments for outlier episodes may not exceed 2.5 percent of the estimated total HH PPS payments for that year and outlier payments as a percent of total payments are capped for each HHA at 10 percent.

As such, beginning in CY 2011, our HH PPS outlier policy is that we reduce payment rates by 5 percent and target up to 2.5 percent of total estimated HH PPS payments to be paid as outliers. To do so, we first returned the 2.5 percent held for the target CY 2010 outlier pool to the national, standardized 60-day episode rates, the national per visit rates, the LUPA add-on payment amount, and the NRS conversion factor for CY 2010. We then reduced the rates by 5 percent as required by section 1895(b)(3)(C) of the Act, as amended by section 3131(b)(1) of the Affordable Care Act. For CY 2011 and subsequent calendar years we target up to 2.5 percent of estimated total payments to

be paid as outlier payments, and apply a 10 percent agency-level outlier cap.

2. Fixed Dollar Loss (FDL) Ratio and Loss-Sharing Ratio

For a given level of outlier payments, there is a trade-off between the values selected for the FDL ratio and the loss-sharing ratio. A high FDL ratio reduces the number of episodes that can receive outlier payments, but makes it possible to select a higher loss-sharing ratio, and therefore, increase outlier payments for qualifying outlier episodes. Alternatively, a lower FDL ratio means that more episodes can qualify for outlier payments, but outlier payments per episode must then be lower.

The FDL ratio and the loss-sharing ratio must be selected so that the estimated total outlier payments do not exceed the 2.5 percent aggregate level (as required by section 1895(b)(5)(A) of the Act). Historically, we have used a value of 0.80 for the loss-sharing ratio which, we believe, preserves incentives for agencies to attempt to provide care efficiently for outlier cases. With a loss-sharing ratio of 0.80, Medicare pays 80 percent of the additional estimated costs above the outlier threshold amount.

In the CY 2011 HH PPS final rule (75 FR 70398), in targeting total outlier payments as 2.5 percent of total HH PPS payments, we implemented an FDL ratio of 0.67, and we maintained that ratio in CY 2012. Simulations based on CY 2010 claims data completed for the CY 2013 HH PPS final rule showed that outlier payments were estimated to comprise approximately 2.18 percent of total HH PPS payments in CY 2013, and as such, we lowered the FDL ratio from 0.67 to 0.45. We stated that lowering the FDL ratio to 0.45, while maintaining a loss-sharing ratio of 0.80, struck an effective balance of compensating for high-cost episodes while allowing more episodes to qualify as outlier payments (77 FR 67080). The national, standardized 60-day episode payment amount is multiplied by the FDL ratio. That amount is wage-adjusted to derive the wage-adjusted FDL amount, which is added to the case-mix and wage-adjusted 60-day episode payment amount to determine the outlier threshold amount that costs have to exceed before Medicare would pay 80 percent of the additional estimated costs.

For this proposed rule, simulating payments using preliminary CY 2014 claims data (as of December 31, 2014) and the CY 2015 payment rates (79 FR 66088 through 66092), we estimate that outlier payments in CY 2015 would comprise 2.02 percent of total payments. Based on simulations using CY 2014 claims data and the CY 2016 payments rates in section III.C.3 of this proposed rule, we estimate that outlier payments would comprise approximately 2.34 percent of total HH PPS payments in CY 2016, a percent change of almost 16 percent. This increase is attributable to the increase in the national per-visit amounts through the rebasing adjustments and the decrease in the national, standardized 60-day episode payment amount as a result of the rebasing adjustment and the nominal case-mix growth reduction. Given similar rebasing adjustments and case-mix growth reduction would also occur for 2017, and hence a similar anticipated increase in the outlier payments, we estimate that for CY 2017 outlier payments as a percent of total HH PPS payments would exceed 2.5 percent.

At this time, we are not proposing a change to the FDL ratio or loss-sharing ratio for CY 2016 as we believe that maintaining an FDL of 0.45 and a loss-sharing ratio of 0.80 are appropriate given the percentage of outlier payments is estimated to increase as a result of the increase in the national per-visit amounts through the rebasing adjustments and the decrease in the national, standardized 60-day episode payment amount as a result of the rebasing adjustment and nominal case-mix growth reduction. In the final rule, we will update our estimate of outlier payments as a percent of total HH PPS payments using the most current and complete year of HH PPS data (CY 2014 claims data as of June 30, 2015). We would continue to monitor the percent of total HH PPS payments paid as outlier payments to determine if future adjustments to either the FDL ratio or loss-sharing ratio are warranted.

E. Report to Congress on the Home Health Study Required by Section 3131(d) of the Affordable Care Act and an Update on Subsequent Research and Analysis

The current home health prospective payment system (HH PPS) pays a determined amount for a 60-day episode of care adjusted for case mix using 153 home health resource groups (HHRGs). The 153 HHRGs are determined based on the amount of therapy provided, the episode's timing in a sequence of episodes, and the patient's clinical and functional status determined from data reported on the Outcome and Assessment Information Set (OASIS). There has been criticism that home health providers have responded to Medicare's payment policy by altering the level of service provided to patients.[5] A review of the literature increasingly indicates that the current HH PPS payment model drives HHA resource allocation and practice decisions.[6] Specifically, research has highlighted the need to examine whether there are vulnerabilities present within the current HH PPS model that provide disincentives for serving the most clinically complex and vulnerable beneficiaries who receive home health care while incentivizing providers to provide more therapy service than needed to increase their reimbursement.[7] There is increasing concern that the current home health payment system encourages home health providers to deliver the maximum volume of therapy services while restricting the number of skilled nursing and home health aide services because of the therapy payment thresholds.[8]

This raises the question whether there is a disparity in payment for those patients with clinically complex and/or poorly controlled chronic conditions who do not qualify for therapy but require a large number of skilled nursing visits.[9]

Section 3131(d) of the Affordable Care Act directed the Secretary to conduct a study on HHA costs involved with providing ongoing access to care to low-income Medicare beneficiaries or beneficiaries in medically underserved areas, and in treating beneficiaries with high levels of severity of illness.[10] To examine access to Medicare home health services and payment, relative to cost, for the vulnerable patient populations, we awarded a contract to L&M Policy Research to perform extensive analysis of both survey and administrative data. Specifically, the L&M collected survey data from physicians and HHAs to examine factors associated with potential access to care issues. The surveys provided information on whether, and the reasons

[5] Rosati, R., Russell, D., Peng, T., Brickner, C., Kurowski, D., Christopher, M.A., Sheehan, K. (2014). Medicare Home Health Payment Reform May Jeopardize Access for Clinically Complex and Socially Vulnerable Patients. Health Affairs. 33(6), 946–956. Doi: 10.1377/hlthaff.2013.1159

[6] Cabin, W. (2009). Evidence-based Research Challenges Home Care PPS Patient Benefits, Costs, and Payment Structure. Home Health Care Management and Practice. 21(4), 240–245. Doi: 10.1177/10848223088328325

[7] Ibid.

[8] Rosati, R., Russell, D., Peng, T., Brickner, C., Kurowski, D., Christopher, M.A., Sheehan, K. (2014). Medicare Home Health Payment Reform May Jeopardize Access for Clinically Complex and Socially Vulnerable Patients. Health Affairs. 33(6), 946–956. Doi: 10.1377/hlthaff.2013.1159

[9] Ibid.

[10] *http://www.cms.gov/Center/Provider-Type/Home-Health-Agency-HHA-Center.html*

as to why, patients were not placed or admitted for home health services or experienced delays in receiving home health services, and information on the characteristics of patients who may have experienced access issues. L&M also analyzed administrative data through descriptive and regression analyses to examine the relationship between patient characteristics and estimated financial margin (difference between payment and estimated cost). The study focused on margins because margin differences, particularly those associated with patient characteristics, indicate that financial incentives may exist in the HH PPS to provide home health care for certain types of patients over others. Lower margins, if systematically associated with care for vulnerable patient populations, may indicate financial disincentives for HHAs to admit these patients and may create access to care issues for them.

The results of the survey revealed that over 80 percent of HHAs and over 90 percent of physicians reported that access to home health care for Medicare fee-for-service beneficiaries in their local area was excellent or good. When survey respondents reported access issues, specifically their inability to place or admit Medicare fee-for-service patients into home health, the most common reason reported was that the patients did not qualify for the Medicare home health benefit. HHAs and physicians also cited family or caregiver issues as an important contributing factor in the inability to admit or place patients. About 17.2 percent of HHAs and 16.7 percent of physicians reported insufficient payment as an important contributing factor in the inability to admit or place patients. The survey results suggest that much of the variation in access to Medicare home health services is associated with social and personal conditions and therefore CMS' ability to improve access for certain vulnerable patient populations through payment policy may be limited.

Analysis of CY 2010 HHA payment and cost data suggests that margins may differ substantially across the HH PPS case-mix groups. In addition, particular beneficiary characteristics appear to be strongly associated with margin, and thus may create financial incentives to select certain patients over others. Margins were estimated to be lower in CY 2010 for patients who required parenteral nutrition, who had traumatic wounds or ulcers, or required substantial assistance in bathing. Given that these variables are already included in the HH PPS case-mix system, the results indicate that modifications to the case-mix system may be needed. Furthermore, in CY 2010, beneficiaries admitted after acute or post-acute stays or who had high Hierarchical Condition Category scores or certain poorly-controlled clinical conditions, such as poorly-controlled pulmonary disorders, were also associated with substantially lower home health margins. In addition, other characteristics, such as those describing assistance by informal caregivers for ADL needs and those describing socio- economic status, such as dual eligibility for Medicare and Medicaid, were strongly associated with lower margins. Exploration of potential payment methodology changes indicated that accounting for additional variables in HH PPS payment may decrease the difference in estimated margin between individuals in specific vulnerable subgroups and those not in the subgroups, thereby potentially decreasing financial incentives to select certain types of patients over others.

CMS awarded a follow-on contract to Abt Associates to further explore margin differences across patient characteristics and possible payment methodology changes suggested by the results of the home health study. Additionally, we have heard from various stakeholders that the current payment system methodology is overly complex and does not fully reflect the range of services provided under the home health benefit, and thus this follow-on study would look at these aspects of the current payment system as well.

Under the follow-on contract, Abt Associates convened a Clinical Workgroup meeting on June 25, 2014 to gain clinical insight from industry regarding the current HH PPS. Based upon the feedback provided during the Clinical Workgroup meeting, as well as CMS concerns about the current model given the findings from the Home Health Study, Abt Associates was tasked with developing model options for consideration and discussion. In September 2014, Abt Associates presented several payment model options for CMS consideration, which were also presented to a Technical Expert Panel meeting held on January 8, 2015.

• Diagnosis on Top Model:

The first model option, referred to as the ''Diagnosis on Top'' (DOT) model, combines diagnosis groups with a regression model to create separate weights for patients with different diagnoses. For its ''Studies in Home Health Case Mix'' project design report (January 7, 2002), Abt had explored the possibility of a DOT model for the home health payment system. At that time, there was a decision that the potential gains in payment accuracy which would result from implementing a DOT model were offset by the added complexity and burden to providers that a DOT model could introduce by requiring providers to classify their patients with a single diagnosis that would be used to determine payment. For present reform efforts, Abt revisited the DOT model with more current data and in the context of other potential changes to the payment system which a DOT model might be able to complement. In this analysis, we are removing the therapy variable, allowing us to explore new ideas and re-explore previously rejected ideas to see how we can increase the statistical power of the model without the therapy variable. In this most recent analysis, each episode is grouped into the following diagnosis groups based on the primary ICD–9–CM diagnosis code reported on the OASIS: (1) Orthopedic; (2) neurological; (3) diabetes; (4) cancer; (5) skin wounds & lesions; (6) cardiovascular; (7) pulmonary; (8) gastrointestinal; (9) genito-urinary; (10) mental/emotional disorders; (11) other diagnoses; (12) case-mix V-codes; and (13) non-case-mix V-codes. Unlike the current HH PPS case-mix system, the diagnosis on top model does not include any therapy thresholds. Under the diagnosis on top model, episodes are first divided into different diagnosis groups, prior to the determination of the clinical and functional levels, and payment model regressions would be run separately for each diagnosis group. This is intended to maximize the statistical performance of the payment system. The work conducted by Abt Associates also included OASIS and non-OASIS items (such as whether the patient was admitted from an acute or post-acute care setting and hierarchical condition categories) not used in the current payment system, but shown to correlate with resource use. In many ways, the regression component of the diagnosis on top model is very similar to the current 4-equation model except that, in later versions of Abt's work on the diagnosis on top model, the clinical and functional levels are replaced with an overall severity level. This change allows the diagnosis on top model to account for a richer set of variables than the clinical and functional levels in the current payment system.

• Predicted Therapy Model:

The second model option is referred to as the ''Predicted Therapy Model.'' The basic structure of this model is similar to that of the current payment model. In this model option, actual therapy visits used in the current HH PPS model are replaced with predicted therapy visits to develop case mix weights and payment amounts based on

the predicted number of visits. The weights are constructed via a two-part model. The first part of the model uses a logistic regression to estimate whether or not the episode had any therapy visits. The second part of this predicted therapy model uses a truncated binomial regression (truncated at zero) to estimate the amount of therapy visits conditional on having any therapy visits. This ''hurdle'' model is commonly used in health economics to describe medical utilization or expenditures where observing zero health care use during the sample period is common.[11] We also looked at estimating the two part model for each of the diagnosis groups in the diagnosis on top model referenced above. The predicted therapy model still includes the four-equation model, the payment regression, and the 153 HHRGs as in the current payment model.

• Home Health Groupings Model:

The third model is referred to as the ''Home Health Groupings '' (HHG) model. The premise of this type of model is that it starts with a clinical foundation. This groupings model groups home health episodes by diagnoses and the expected types of home health interventions required. Using expert clinical judgment, each ICD–9 code is assigned to one of seven groups based on the intervention expected to be required. Those seven groups include: (1) Musculoskeletal Rehabilitation; (2) Neuro/Stroke Rehabilitation; (3) Skin/Non-Surgical Wound Care; (4) Post-Op Wound Aftercare; (5) Behavioral Health Care; (6) Complex Medical Care; and (7) Medication Management, Teaching, and Assessment. Unlike the current HH PPS case-mix system, the home health groupings model does not include any therapy thresholds. Abt Associates is currently in the process of further delineating the seven groups listed above using OASIS and non-OASIS items (such as whether the patient was admitted from an acute or post-acute care setting and hierarchical condition categories) not used in the current payment system, but shown to correlate with resource use. The HHG model groups home health episodes in a way that mirrors how clinicians would differentiate between different types of beneficiaries and would help explain why the beneficiary is receiving home health, something that the current HH PPS case-mix may be lacking. MedPAC noted that policy makers have faced challenges in defining the role of home health.[12] We believe that the HHG model may be one way to better define the types of care that patients receive under the home health benefit and thus the role of home care.

To inform the model options discussed above, Abt Associates also reviewed other Medicare prospective payment systems to identify alternative methods used in classifying patients and to better understand components of each system. In the future, we plan to issue a technical report under our contract with Abt Associates that would further describe and analyze the three model options. We also plan to reconvene the Clinical Workgroup and the Technical Experts Panel in the near future to help further inform CMS on the various model options developed and next steps.

F. Technical Regulations Text Changes

First, we propose to make several technical corrections in part 484 to better align the payment requirements with recent statutory and regulatory changes for home health services. We propose to make changes to § 484.205(e) to state that estimated total outlier payments for a given calendar year are limited to no more than 2.5 percent of total outlays under the HHA PPS, rather than 5 percent of total outlays, as required by section 1895(b)(5)(A) of the Act as amended by section 3131(b)(2)(B) of the Affordable Care Act. Similarly, we also propose to specify in § 484.240(e) that the fixed dollar loss and the loss sharing amounts are chosen so that the estimated total outlier payment is no more than 2.5 percent of total payments under the HH PPS, rather than 5 percent of total payments under the HH PPS as required by section 1895(b)(5)(A) of the Act as amended by section 3131(b)(2)(B) of the Affordable Care Act. We also propose to describe in § 484.240(f) that the estimated total amount of outlier payments to an HHA in a given year may not exceed 10 percent of the estimated total payments to the specific agency under the HH PPS in a given year. This update aligns the regulations text at § 484.240(f) with the statutory requirement in 1895(b)(5)(A) of the Act as amended by section 3131(b)(2)(B) of the Affordable Care Act. Finally, we propose a minor editorial change in § 484.240(b) to specify that the outlier threshold for each case-mix group is the episode payment amount for that group, *or* the PEP adjustment amount for the episode, plus a fixed dollar loss amount that is the same for all case-mix groups.

Second, in addition to the proposed changes to the regulations text pertaining to outlier payments under the HH PPS, we also propose to amend § 409.43(e)(iii) and to add language to § 484.205(d) to clarify the frequency of review of the plan of care and the provision of Partial Episode Payments (PEP) under the HH PPS as a result of a regulations text change in § 424.22(b) that was finalized in the CY 2015 HH PPS final rule (79 FR 66032). Specifically, we propose to change the definition of an intervening event to include transfers and instances where a patient is discharged and return to home health during a 60-day episode, rather than a discharge and return to the same HHA during a 60-day episode. In § 484.220, we propose to update the regulations text to reflect the downward adjustments to the 60-day episode payment rate due to changes in the coding or classification of different units of service that do not reflect real changes in case-mix (nominal case-mix growth) applied to calendar years 2012 and 2013, which were finalized in the CY 2012 HH PPS final rule (76 FR 68532). This also includes updating the CY 2011 adjustment to 3.79 percent as finalized in the CY 2011 HH PPS final rule (75 FR 70461). In § 484.225 we are proposing to eliminate references to outdated market basket index factors by removing paragraphs (b), (c), (d), (e), (f) and (g). In § 484.230 we propose to delete the last sentence as a result of a change from a separate LUPA add-on amount to a LUPA add-on factor finalized in the CY 2014 HH PPS final rule (78 FR 72256). Finally, we are deleting and reserving § 484.245 as we believe that this language is no longer applicable under the HH PPS, as it was meant to facilitate the transition to the original PPS established in CY 2000.

Lastly, we propose to make one technical correction in § 424.22 to re-designate paragraph (a)(1)(v)(B)(*1*) as (a)(2).

We invite comments on these technical corrections and associated changes in the regulations at § 409, § 424, and § 484.

IV. Proposed Home Health Value-Based Purchasing (HHVBP) Model

A. Background

In the CY 2015 Home Health Prospective Payment System (HH PPS) final rule titled ''Medicare and Medicaid Programs; CY 2015 Home Health

[11] ''Modeling Health Care Costs and Counts,'' ASHE conference course by Partha Deb, Willard Manning and Edward Norton, *http://web.harrisschool.uchicago.edu/sites/default/files/ASHE2012_Minicourse_Cost_Use_slides_corrected.pdf*

[12] Medicare Payment Advisory Commission (MedPAC), ''Report to the Congress: Medicare Payment Policy''. March 2015. P. 219. Washington, DC. Accessed on 5/5/2015 at: *http://medpac.gov/documents/reports/march-2015-report-to-the-congress-medicare-payment-policy.pdf?sfvrsn=0.*

Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies (79 FR 66032–66118), we indicated that we were considering the development of a home health value-based purchasing (HHVBP) model. We sought comments on a future HHVBP model, including elements of the model; size of the payment incentives and percentage of payments that would need to be placed at risk in order to spur home health agencies (HHAs) to make the necessary investments to improve the quality of care for Medicare beneficiaries; the timing of the payment adjustments; and, how performance payments should be distributed. We also sought comments on the best approach for selecting states for participation in this model. We noted that if the decision was made to move forward with the implementation of a HHVBP model in CY 2016, we would solicit additional comments on a more detailed model proposal to be included in future rulemaking.

In the CY 2015 HH PPS final rule,[13] we indicated that we received a number of comments related to the magnitude of the percentage payment adjustments; evaluation criteria; payment features; a beneficiary risk adjustment strategy; state selection methodology; and the approach to selecting Medicare-certified HHAs. A number of commenters supported the development of a value-based purchasing model in the home health industry in whole or in part with consideration of the design parameters provided. No commenters provided strong counterpoints or alternative design options which dissuaded CMS from moving forward with general design and framework of the HHVBP model as discussed in the CY 2015 HH PPS proposed rule. All comments were considered in our decision to develop an HHVBP model for implementation beginning January 1, 2016. Therefore, in this proposed rule, we are proposing to implement a HHVBP model, which includes a randomized state selection methodology; the reporting framework; the payment adjustment methodology; payment adjustment schedule by performance year and payment adjustment percentage; the quality measures selection methodology, classifications and weighting, measures for performance year one, including the reporting of New Measures, and the framework for proposing to adopt measures for subsequent performance years; the performance scoring methodology, which includes performance based on achievement and improvement; the review and recalculation period; and the evaluation framework.

The basis for developing this proposed value-based purchasing (VBP) model, as described in the proposed regulations at § 484.300 *et seq.,* stems from several important areas of consideration. First, we expect that tying quality to payment through a system of value-based purchasing will improve the beneficiaries' experience and outcomes. In turn, we expect payment adjustments that both reward improved quality and penalize poor performance will incentivize quality improvement and encourage efficiency, leading to a more sustainable payment system.

Second, section 3006(b) of the Affordable Care Act directed the Secretary of the Department of Health and Human Services (the Secretary) to develop a plan to implement a VBP program for payments under the Medicare Program for HHAs and the Secretary issued an associated Report to Congress in March of 2012 (2012 Report).[14] The 2012 Report included a roadmap for implementation of an HHVBP model and outlined the need to develop an HHVBP program that aligns with other Medicare programs and coordinates incentives to improve quality. The 2012 Report also indicated that a HHVBP program should build on and refine existing quality measurement tools and processes. In addition, the 2012 Report indicated that one of the ways that such a program could link payment to quality would be to tie payments to overall quality performance.

Third, section 402(a)(1)(A) of the Social Security Amendments of 1967 (as amended) (42 U.S.C. 1395b–1(a)(1)(A)), provided authority for us to conduct the Home Health Pay-for-Performance (HHPFP) Demonstration that ran from 2008 to 2010. The results of that Demonstration found modest quality improvement in certain measures after comparing the quality of care furnished by Demonstration participants to the quality of care furnished by the control group. One important lesson learned from the HHPFP Demonstration was the need to link the HHA's quality improvement efforts and the incentives. HHAs in three of the four regions generated enough savings to have incentive payments in the first year of the Demonstration, but the size of payments were unknown until after the conclusion of the Demonstration. Also, the time lag between quality performance and payment incentives was too long to provide a sufficient motivation for HHAs to take necessary steps to improve quality. The results of the Demonstration published in a comprehensive evaluation report [15] suggest that future models could benefit from ensuring that incentives are reliable enough, of sufficient magnitude, and paid in a timely fashion to encourage HHAs to be fully engaged in the quality of care initiative.

Furthermore, the President's FY 2015 and 2016 Budgets proposed that VBP should be extended to additional providers including skilled nursing facilities, home health agencies, ambulatory surgical centers, and hospital outpatient departments. The FY 2015 Budget called for at least 2 percent of payments to be tied to quality and efficiency of care on a budget neutral basis. The FY 2016 Budget outlines a program which would tie at least 2 percent of Medicare payments to the quality and efficiency of care in the first 2 years of implementation beginning in 2017, and at least 5 percent beginning in 2019 without any impact to the budget. We propose in this HHVBP model to also follow a graduated payment adjustment strategy within certain selected states beginning January 1, 2016.

The Secretary has also set two overall delivery system reform goals for CMS. First, we seek to tie 30 percent of traditional, or fee-for-service, Medicare payments to quality or value-based payments through alternative payment models by the end of 2016, and to tie 50 percent of payments to these models by the end of 2018. Second, we seek to tie 85 percent of all traditional Medicare payments to quality or value by 2016 and 90 percent by 2018.[16] To support these efforts the Health Care Payment Learning and Action Network was recently launched to help advance the work being done across sectors to increase the adoption of value-based payments and alternative payment

[13] *Medicare and Medicaid Programs; CY 2015 Home Health Prospective Payment System Rate Update; Home Health Quality Reporting Requirements; and Survey and Enforcement Requirements for Home Health Agencies,* 79 FR 66105–66106 (November 6, 2014).

[14] CMS, ''Report to Congress: Plan to Implement a Medicare Home Health Agency Value-Based Purchasing Program'' (March 15, 2012) available at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HomeHealthPPS/downloads/stage-2-NPRM.PDF.*

[15] ''CMS Report on Home Health Agency Value-Based Purchasing Program'' (February of 2012) available at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Reports/Downloads/HHP4P_Demo_Eval_Final_Vol1.pdf.*

[16] Content of this announcement can be found at *http://www.hhs.gov/news/press/2015pres/01/20150126a.html.*

models. We believe that testing the HHVBP model would support these goals.

Finally, we have already successfully implemented the Hospital Value-Based Purchasing (HVBP) program, under which value-based incentive payments are made in a fiscal year to hospitals that meet performance standards established for a performance period with respect to measures for that fiscal year. The percentage of a participating hospital's base-operating DRG payment amount for FY 2015 discharges that is at risk, based on the hospital's performance under the program for that fiscal year, is 1.5 percent. That percentage will increase to 2.0 by FY 2017. We are proposing an HHVBP model that builds on the lessons learned and guidance from the HVBP program and other applicable demonstrations as discussed above, as well as from the evaluation report discussed earlier.

The proposed HHVBP model presents an opportunity to improve the quality of care furnished to Medicare beneficiaries and study what incentives are sufficiently significant to encourage HHAs to provide high quality care. The HHVBP model being proposed would offer both a greater potential reward for high performing HHAs as well as a greater potential downside risk for low performing HHAs. If implemented, the model would begin on January 1, 2016, and include an array of measures that would capture the multiple dimensions of care that HHAs furnish.

The proposed model would be tested by CMS's Center for Medicare and Medicaid Innovation (CMMI) under section 1115A of the Act. Under section 1115A(d)(1) of the Act, the Secretary may waive such requirements of Titles XI and XVIII and of sections 1902(a)(1), 1902(a)(13), and 1903(m)(2)(A)(iii) as may be necessary solely for purposes of carrying out section 1115A with respect to testing models described in section 1115A(b). The Secretary is not issuing any waivers of the fraud and abuse provisions in sections 1128A, 1128B, and 1877 of the SSA or any other Medicare or Medicaid fraud and abuse laws for this model. Thus, notwithstanding any other provisions of this proposed rule, all providers and suppliers participating in the HHVBP model must comply with all applicable fraud and abuse laws and regulations.

We are proposing to use the section 1115A(d)(1) waiver authority to apply a reduction or increase of up to 8 percent to current Medicare payments to Medicare-certified HHAs delivering care to beneficiaries within the boundaries of certain states, depending on the HHA's performance on specified quality measures relative to its peers. Specifically, the HHVBP model proposes to utilize the waiver authority to adjust Medicare payment rates under section 1895(b) of the Act.[17] In accordance with the authority granted to the Secretary in section 1115A(d)(1) of the Act, we would waive section 1895(b)(4) of the Act only to the extent necessary to adjust payment amounts to reflect the value-based payment adjustments under this proposed model for Medicare-certified HHAs in specified states selected in accordance with CMS's proposed selection methodology. We are not proposing to implement this model under the authority granted by the Affordable Care Act under section 3131 (''Payment Adjustments for Home Health Care'').

The defined population would include all Medicare beneficiaries being provided care by any Medicare-certified HHA delivering care within the selected states. Medicare-certified HHAs that are delivering care within the boundaries of selected states are considered 'Competing Medicare-certified Home Health Agencies' within the scope of this HHVBP Model. If care is delivered outside of boundaries of selected states, or inside the boundaries of a non-selected state that does not have a reciprocal agreement with a selected state, payments for those beneficiaries would not be considered within the scope of the model because we are basing participation in the model on state specific CMS Certification Numbers (CCNs). Payment adjustments for each year of the model would be calculated based on a comparison of how well each competing Medicare-certified HHA performed during the performance period for that year (proposed below to be one year in length, starting in CY 2016) with its performance on the same measures in 2015 (proposed below to be the baseline data year).

The first performance year would be CY 2016, the second would be CY 2017, the third would be CY 2018, the fourth would be 2019, and the fifth would be CY 2020. Greater details on performance periods are outlined in further detail in section D—Performance Assessment and Payment Periods. This model would test whether being subject to significant payment adjustments to the Medicare payment amounts that would otherwise be made to competing Medicare-certified HHAs would result in statistically significant improvements in the quality of care being delivered to this specific population of Medicare beneficiaries.

We propose to identify Medicare-certified HHAs for participation in this model using state borders as boundaries. We do so under the authority granted in section 1115A(a)(5) of the Act to elect to limit testing of a model to certain geographic areas. This decision is influenced by the 2012 Report to Congress mandated under section 3006(b) of the Affordable Care Act. This Report stated that HHAs which participated in previous value-based purchasing demonstrations ''uniformly believed that all Medicare-certified HHAs should be required to participate in future VBP programs so all agencies experience the potential burdens and benefits of the program'' and some HHAs expressed concern that absent mandatory participation, ''low-performing agencies in areas with limited competition may not choose to pursue quality improvement.'' [18]

Section 1115A(b)(2)(A) of the Act requires that the Secretary select models to be tested where the Secretary determines that there is evidence that the model addresses a defined population for which there are deficits in care leading to poor clinical outcomes or potentially avoidable expenditures. The HHVBP model was developed to improve care for Medicare patients receiving care from HHAs based on evidence in the March 2014 MedPAC Report to Congress citing quality and cost concerns in the home health sector. According to MedPAC, ''about 29 percent of post-hospital home health stays result in readmission, and there is tremendous variation in performance among providers within and across geographic regions.'' [19] The same report cited limited improvement in quality based on existing measures, and noted that the data on quality ''are collected only for beneficiaries who do not have their home health care stays terminated by a hospitalization,'' skewing the results in favor of a healthier segment of the Medicare population.[20] This model would test the use of adjustments to Medicare HH PPS rates by tying payment to quality performance with the goal of achieving the highest possible quality and efficiency.

[17] 42 U.S.C. 1395fff.

[18] See the *Recommendations* section of the U.S. Department of Health and Human Services. Report to Congress: Plan to Implement a Medicare Home Health Agency Value-Based Purchasing Program.'' (March 2012) p. 28.

[19] See full citation at note 11. MedPAC Report to Congress (March 2014) p.215.

[20] MedPAC Report to Congress (March 2014) p.226.

B. Overview

In § 484.305 we propose definitions for ''applicable percent'', ''applicable measure'', ''benchmark'', ''home health prospective payment system'', ''larger-volume cohort'', ''linear exchange function'', ''Medicare-certified home health agency'', ''New Measures'', ''payment adjustment'', ''performance period'', ''smaller-volume cohort'', ''selected states'', ''starter set'', ''Total Performance Score'', and ''value-based purchasing'' as they pertain to this subpart. The HHVBP model is being proposed to encompass five performance years and be implemented beginning January 1, 2016 and conclude on December 31, 2022. Payment and service delivery models are developed by CMMI in accordance with the requirements of section 1115A of the Act. During the development of new models, CMMI builds on the ideas received from internal and external stakeholders and consults with clinical and analytical experts.

In this proposed rule, we are outlining an HHVBP model for public notice and comment that has an overall purpose of improving the quality of home health care and delivering it to the Medicare population in a more efficient manner. The specific goals of the proposed model are to:

1. Incentivize HHAs to provide better quality care with greater efficiency;

2. Study new potential quality and efficiency measures for appropriateness in the home health setting; and,

3. Enhance current public reporting processes.

We are proposing that the HHVBP model would adjust Medicare HHA payments over the course of the model by up to 8 percent depending on the applicable performance year and the degree of quality performance demonstrated by each competing Medicare-certified HHA. The proposed model would reduce the HH PPS final claim payment amount to an HHA for each episode in a calendar year by an amount up to the applicable percentage defined in proposed § 484.305. The timeline of payment adjustments as they apply to each performance year is described in greater detail in the section entitled ''Payment Adjustment Timeline.''

The model would apply to all Medicare-certified HHAs in each of the selected states, which means that all HHAs in the selected states would be required to compete. We propose to codify this policy at 42 CFR 484.310. Furthermore, a competing Medicare-certified HHA would only be measured on performance for care delivered to Medicare beneficiaries within selected states (with rare exceptions given for care delivered when a reciprocal agreement exists between states). The distribution of payment adjustments would be based on quality performance, as measured by both achievement and improvement, across a proposed set of quality measures rigorously constructed to minimize burden as much as possible and improve care. Competing Medicare-certified HHAs that demonstrate they can deliver higher quality of care in comparison to their peers (as defined by the volume of services delivered within the selected state), or their own past performance, could have their payment for each episode of care adjusted higher than the amount that otherwise would be paid under section 1895 of the Act. Competing Medicare-certified HHAs that do not perform as well as other competing Medicare-certified HHAs of the same size in the same state might have their payments reduced and those competing Medicare-certified HHAs that perform similarly to others of similar size in the same state might have no payment adjustment made. This operational concept is similar in practice to what is used in the HVBP program.

We expect that the risk of having payments adjusted in this manner would provide an incentive among all competing Medicare-certified HHAs delivering care within the boundaries of selected states to provide significantly better quality through improved planning, coordination, and management of care. The degree of the payment adjustment would be dependent on the level of quality achieved or improved from the baseline year, with the highest upward performance adjustments going to competing Medicare-certified HHAs with the highest overall level of performance based on either achievement or improvement in quality. The size of a Medicare-certified HHA's payment adjustment for each year under the model would be dependent upon that HHA's performance with respect to that calendar year relative to other competing Medicare-certified HHAs of similar size in the same state and relative to its own performance during the baseline year.

We are proposing that states would be selected randomly from nine regional groupings for model participation. A competing Medicare-certified HHA is only measured on performance for care delivered to Medicare beneficiaries within boundaries of selected states and only payments for HHA services provided to Medicare beneficiaries within boundaries of selected states would be subject to adjustment under the proposed model. Requiring all Medicare-certified HHAs within the boundaries of selected states to compete in the model would ensure that: (1) There is no self-selection bias, (2) competing HHAs are representative of HHAs nationally, and (3) there is sufficient participation to generate meaningful results. We believe it is necessary to require all HHAs delivering care within boundaries of selected states to be included in the model because, in our experience, Medicare-providers are generally reluctant to participate voluntarily in models in which their Medicare payments could be subject to possible reduction. This reluctance to participate in voluntary models has been shown to cause self-selection bias in statistical assessments and thus, may present challenges to our ability to evaluate the model. In addition, state boundaries represent a natural demarcation in how quality is currently being assessed through OASIS measures on Home Health Compare (HHC).

C. Selection Methodology

1. Identifying a Geographic Demarcation Area

We are proposing to adopt a methodology that uses state borders as boundaries for demarcating which Medicare-certified HHAs will be required to compete in the model. We are proposing to select nine states from nine geographically-defined groupings of five or six states. Groupings were also defined in order to ensure that the successful implementation of the model would produce robust and generalizable results, as discussed later in this section.

We took into account five key factors when deciding to propose selection at the state-level for this model. First, if we required some, but not all, Medicare-certified HHAs that deliver care within the boundaries of a selected state to participate in the model, we believe the HHA market for the state could be disrupted because HHAs in the model would be competing against HHAs not in the model (herein referenced as either 'non-model HHAs' or 'non-competing HHAs'). Second, we wanted to ensure that the distribution of payment adjustments based on performance under the model could be extrapolated to the entire country. Statistically, the larger the sample to which payment adjustments are applied, the smaller the variance of the sampling distribution and the greater the likelihood that the distribution accurately predicts what would transpire if the methodology were applied to the full population of

HHAs. Third, we considered the need to align with other HHA quality program initiatives including HHC. The HHC Web site presently provides the public and HHAs a state- and national-level comparison of quality. We expect that aligning performance with the HHVBP benchmark and the achievement score would support how measures are currently being reported on HHC. Fourth, there is a need to align with CMS regulations which require that each HHA have a unique CMS Certification Number (CCN) for each state in which the HHA provides service. Fifth, we wanted to ensure sufficient sample size and the ability to meet the rigorous evaluation requirements for CMMI models. These five factors are important for the successful implementation and evaluation of this model.

We expect that when there is a risk for a downside payment adjustment based on quality performance measures, the use of a self-contained, mandatory cohort of HHA participants will create a stronger incentive to deliver greater quality among competing Medicare-certified HHAs. Specifically, it is possible the market would become distorted if non-model HHAs are delivering care within the same market as competing Medicare-certified HHAs because competition, on the whole, becomes unfair when payment is predicated on quality for one group and volume for the other group. In addition, we expect that evaluation efforts might be negatively impacted because some HHAs would be competing on quality and others on volume within the same market.

We are proposing the use of state boundaries after careful consideration of several alternative selection approaches, including randomly selecting HHAs from all HHAs across the country, and requiring participation from smaller geographic regions including the county; the Combined Statistical Area (CSA); the Core-Based Statistical Area (CBSA); rural provider level; and the Hospital Referral Region (HRR) level.

A methodology using a national sample of HHAs that are randomly selected from all HHAs across the country could be designed to include enough HHAs to ensure robust payment adjustment distribution and a sufficient sample size for the evaluation; however, this approach may present significant limitations when compared with the state boundaries selection methodology proposed in this model. Of primary concern with randomly selecting at the provider-level across the nation is the issue with market distortions created by having competing Medicare-certified HHAs operating in the same market as non-model HHAs.

Using smaller geographic areas than states, such as counties, CSAs, CBSAs, rural, and HRRs, could also present challenges for this model. These smaller geographic areas were considered as alternate selection options; however, their use could result in too small of a sample size of potential competing HHAs. As a result, we expect the distribution of payment adjustments could become highly divergent among fewer HHA competitors. In addition, the ability to evaluate the model could become more complex and may be less generalizable to the full population of Medicare-certified HHAs and the beneficiaries they serve across the nation. Further, the use of smaller geographic areas than states could increase the proportion of Medicare-certified HHAs that could fall into groupings with too few agencies to generate a stable distribution of payment adjustments. Thus, if we were to define geographic areas based on CSAs, CBSAs, counties, or HRRs, we would need to develop an approach for consolidating smaller regions into larger regions.

Home health care is a unique type of health care service when compared to other Medicare provider types. In general, the HHA's care delivery setting is in the beneficiaries' homes as opposed to other provider types that traditionally deliver care at a brick and mortar institution within beneficiaries' respective communities. As a result, the HHVBP model needs to be designed to account for the unique way that HHA care is provided in order to ensure that the results are generalizable to the population. HHAs are limited to providing care to beneficiaries in the state that they have a CCN however; HHAs are not restricted from providing service in a county, CSA, CBSA or HRR that they are not located in (as long as the other county/CBSA/HRR is in the same state in which the HHA is certified). As a result, using smaller geographic areas (than state boundaries) could result in similar market distortion and evaluation confounders as selecting providers from a randomized national sampling. The reason is that HHAs in adjacent counties/CSAs/CBSAs/HRRs may not be in the model but, would be directly competing for services in the same markets or geographic regions. Competing HHAs delivering care in the same market area as non-competing HHAs could generate a spillover effect where non-model HHAs would be vying for the same beneficiaries as competing HHAs. This spillover effect presents several issues for evaluation as the dependent variable (quality) becomes confounded by external influences created by these non-competing HHAs. These unintentional external influences on competing HHAs may be made apparent if non-competing HHAs become incentivized to generate greater volume at the expense of quality delivered to the beneficiaries they serve and at the expense of competing HHAs that are paid on quality instead of volume. Further, the ability to extrapolate these results to the full population of HHAs and the beneficiaries they serve becomes confounded by an artifact of the model and inferences would be limited from an inability to duplicate these results. While these concerns would decrease in some order of magnitude as larger regions are considered, the only way to eliminate these concerns entirely is to define participation among Medicare-certified HHAs at the state level.

In addition, home health quality data currently displayed on HHC allows users to compare HHA services furnished within a single state. Selecting HHAs using other geographic regions that are smaller and/or cross state lines could require the model to deviate from the established process for reporting quality. For these reasons, we believe a selection methodology based on the use of Medicare-certified HHAs delivering care within state boundaries would be the most appropriate for the successful implementation and evaluation of this model.

While, for the reasons described above, we are proposing that the geographic basis of selection remain at the state-level, we nevertheless seek comment on potential alternatives that might use smaller geographic areas. With consideration of alternatives, the public should reference the five aforementioned key factors used to consider selection at the state-level for this model as they relate to the evaluative framework and operational feasibility of this model. In particular, one potential alternative would be to split states into sub-state regions using a combination of CSAs and metropolitan statistical areas (MSA), a type of CBSA. For example, regions might be defined using the following process:

- *Step 1:* Define one sub-state region corresponding to each CSA that contains an MSA (but not for CSAs that do not include an MSA) and one sub-state region corresponding to each MSA that is not part of a CSA. In cases where a CSA or MSA crossed state boundaries, only the portion of the CSA or MSA that falls inside the state boundaries would be included in the sub-state region.

• *Step 2:* Any portions of a state that were not included in a sub-state region based on a CSA or an MSA defined in Step 1 would be consolidated in a single ''remainder of state'' sub-state region.

• *Step 3:* To ensure that all sub-state regions have a sufficient number of HHAs to permit stable distribution of payment adjustments, sub-state regions based on CSAs or MSAs that contained fewer than 25 HHAs would be consolidated into the ''remainder of state'' sub-state region.

• *Step 4:* If a ''remainder of state'' sub-state region had fewer than 25 HHAs, that sub-state region would be consolidated with the geographically closest sub-state region based on a CSA or MSA.

We note that algorithms like this one may generate more than 100 total sub-state regions and over 200 unique competing cohorts of Medicare-certified HHAs.

We seek comment on advantages and disadvantages of this approach relative to defining regions based on state boundaries. In particular, we note that because this approach would generate a larger number of regions, it could increase the statistical power of the model evaluation, and might improve our ability to determine what effects the model has on the quality of home health care, as well as other outcomes of interest. However, we note that because regions would no longer line up with full states in most cases, the regions selected to participate in the model would no longer align directly with those displayed on HHC and therefore, quality data would have to be recalculated and displayed differently from what is currently being reported on HHC. In addition, using sub-state regions could, as noted above, lead to undesirable spillover effects between participating and non-participating HHAs. These spillover concerns would be mitigated by the fact that none of the sub-state regions defined under this approach would cross state lines and the fact that the sub-state regions would be larger than under some approaches to defining sub-state regions (for example, at the county level). Nevertheless, it is unclear how severe these evaluation and operational concerns would be in practice and how the extent of these concerns would depend on the different characteristics of the selected regions. We welcome public comment on these proposed state selection methodologies.

2. Overview of the Randomized Selection Methodology for States

We are requesting comments on the following proposed methodology for selecting states. The selection methodology employed will need to provide the strongest evidence of producing meaningful results representative of the national population of Medicare-certified HHAs and, in turn, meet the evaluation requirements of section 1115A(b)(4) of the Act.

The state selections listed in proposed § 484.310 are based on the described proposed randomized selection methodology and are subject to change in the CY 2016 HH PPS final rule as a result of any changes that may be made to the proposed randomized methodology in response to comments. However, if the final methodology differs from what we are proposing here, we will apply the final methodology and identify the states selected under the final methodology in the final rule. We propose to group states by each state's geographic proximity to one another and by accounting for key evaluation characteristics (that is, proportionality of service utilization, proportionality of organizations with similar tax-exempt status and HHA size, and proportionality of beneficiaries that are dually-eligible for Medicare and Medicaid).

Based on an analysis of OASIS quality data and Medicare claims data, we believe the use of nine geographic groupings is necessary to ensure that the model accounts for the diversity of beneficiary demographics, rural and urban status, cost and quality variations, among other criteria. To provide for comparable and equitable selection probabilities, these separate geographic groupings each include a comparable number of states. We are not proposing to adopt census-based geographic groupings or the CMS Medicare Administrative Contractor (MAC) jurisdictions because those groupings would not permit an equal opportunity of selection of Medicare-certified HHAs by state or an assurance that we would be able test the model among a diversity of agencies such as is found across the nation. Following this logic, under our proposed methodology, groupings are based on states' geographic proximity to one another, having a comparable number of states if randomized for an equal opportunity of selection, and similarities in key characteristics that would be considered in the evaluation study because the attributes represent different types of HHAs, regulatory oversight, and types of beneficiaries served. This is necessary to ensure that the evaluation study remains objective and unbiased and that the results of this study best represent the entire population of Medicare-certified HHAs across the nation.

Several of the key characteristics we used for grouping state boundaries into clusters for selection into the model are also used in the impact analysis of our annual HHA payment updates, a fact that reinforces their relevance for evaluation. The additional proposed standards for grouping (level of utilization and socioeconomic status of patients) are also important to consider when evaluating the program, because of their current policy relevance. Large variations in the level of utilization of the home health benefit has received attention from policymakers concerned with achieving high-value health care and curbing fraud and abuse.[21] Policymakers' concerns about the role of beneficiary-level characteristics as determinants of resource use and health care quality were highlighted in the Affordable Care Act, which mandated a study [22] of access to home health care for vulnerable populations [23] and, more recently, Improving Medicare Post-acute Care Transformation (IMPACT) Act of 2014 required the Secretary to study the relationship between individuals' socioeconomic status and resource use or quality.[24] The parameters used to define each geographic grouping are further described in the next three sections.

a. Geographic Proximity

Under the proposed methodology, in order to ensure that the Medicare-certified HHAs that would be required to participate in the model are not all in one region of the country, the states in each grouping are adjacent to each other whenever possible while creating logical groupings of states based on common characteristics as described above. Specifically, analysis based on quality data and claims data found that HHAs in these neighboring states tend to hold certain characteristics in common. These include having similar; patterns of utilization, proportionality of non-profit agencies, and types of beneficiaries served (for example, severity and number, type of co-

[21] See MedPAC Report to Congress: Medicare Payment Policy (March 2014, Chapter 9) available at *http://medpac.gov/documents/reports/mar14_entirereport.pdf.* See also the Institute of Medicine Interim Report of the Committee on Geographic Variation in Health Care Spending and Promotion of High-Value Health Care: Preliminary Committee Observations (March 2013) available at *http://iom.edu/Reports/2013/Geographic-Variation-in-Health-Care-Spending-and-Promotion-of-High-Care-Value-Interim-Report.aspx.*

[22] This study can be accessed at *http://www.cms.gov/Center/Provider-Type/Home-Health-Agency-HHA-Center.html.*

[23] Section 3131(d) of the Affordable Care Act.

[24] Improving Medicare Post-acute Care Transformation (IMPACT) Act of 2014 (Public Law 113–185).

morbidities, and socio-economic status). Therefore, the proposed groupings of states are delineated according to states' geographic proximity to one another and common characteristics as a means of permitting greater comparability. In addition, each of the groupings retains similar types of characteristics when compared to any other type of grouping of states.

b. Comparable Number of States in Each Grouping

Under our proposed randomized selection methodology, each geographic region, or grouping, has a similar number of states. As a result, all states would have a 16.7 percent to 20 percent chance of being selected under our proposed methodology, and Medicare-certified HHAs would have a similar likelihood of being required to compete in the model by using this sampling design. We assert that this sampling design would ensure that no single entity is singled out for selection, since all states and Medicare-certified HHAs would have approximately the same chance of being selected. In addition, this sampling approach would mitigate the opportunity for HHAs to self-select into the model and thereby bias any results of the test.

c. Characteristics of State Groupings

Without sacrificing an equal opportunity for selection, the proposed state groupings are intended to ensure that important characteristics of Medicare-certified HHAs that deliver care within state boundaries can be used to evaluate the primary intervention with greater generalizability and representativeness of the entire population of Medicare-certified HHAs in the nation. Data analysis of these characteristics employed the full data set of Medicare claims and OASIS quality data. Although some characteristics, such as beneficiary age and case-mix, yield some variations from one state to another, other important characteristics do vary substantially and could influence how HHAs respond to the incentives of the model. Specifically, home health services utilization rates, tax-exemption status of the provider, the socioeconomic status of beneficiaries (as measured by the proportion of dually-eligible beneficiaries), and agency size (as measured by average number of episodes of care per HHA), are important characteristics that could influence outcomes of the model. Subsequently, we intend to study the impacts of these characteristics for purposes of designing future value-based purchasing models and programs. These characteristics and expected variations must be considered in the evaluation study to enable us to avoid erroneous inferences about how different types of HHAs will respond to HHVBP incentives.

Under this proposed state selection methodology, state groupings reflect regional variations that enhance the generalizability of the model. In line with this methodology, each grouping includes states that are similar in at least one important aforementioned characteristic while being geographically located in close proximity to one another. Using the criteria described above, the following geographic groupings were identified using Medicare claims-based data from calendar years 2013–2014. Each of the 50 states was assigned to one of the following geographic groups:

- Group #1: *(VT, MA, ME, CT, RI, NH)*

States in this group tend to have larger HHAs and have average utilization relative to other states.

- Group #2: *(DE, NJ, MD, PA, NY)*

States in this group tend to have larger HHAs, have lower utilization, and provide care to an average number of dually-eligible beneficiaries relative to other states.

- Group #3: *(AL, GA, SC, NC, VA)*

States in this group tend to have larger HHAs, have average utilization rates, and provide care to a high proportion of minorities relative to other states.

- Group #4: *(TX, FL, OK, LA, MS)*

States in this group have HHAs that tend to be for-profit, have very high utilization rates, and have a higher proportion of dually-eligible beneficiaries relative to other states.

- Group #5: *(WA, OR, AK, HI, WY, ID)*

States in this group tend to have smaller HHAs, have average utilization rates, and are more rural relative to other states.

- Group #6: *(NM, CA, NV, UT, CO, AZ)*

States in this group tend to have smaller HHAs, have average utilization rates, and provide care to a high proportion of minorities relative to other states.

- Group #7: *(ND, SD, MT, WI, MN, IA)*

States in this group tend to have smaller HHAs, have very low utilization rates, and are more rural relative to other states.

- Group #8: *(OH, WV, IN, MO, NE., KS)*

States in this group tend to have HHAs that are of average size, have average utilization rates, and provide care to a higher proportion of dually-eligible beneficiaries relative to other states.

- Group #9: *(IL, KY, AR, MI, TN)*

States in this group tend to have HHAs with higher utilization rates relative to other states.

d. Randomized Selection of States

Upon the careful consideration of the aforementioned alternative selection methodologies, including selecting states on a non-random basis, we choose to propose the use of a selection methodology based on a randomized sampling of states within each of the nine regional groupings described above. We examined data on the evaluation elements listed in this section to determine if specific states could be identified in order to fulfill the needs of the evaluation. After careful review, we determined that each evaluation element could be measured by more than one state. As a result, we determined that it was necessary to apply a fair method of selection where each state would have a comparable opportunity of being selected and which would fulfill the need for a robust evaluation. The proposed nine groupings of states as described in this section permit the model to capture the essential elements of the evaluation including demographic, geographic, and market factors.

The randomized sampling of states is without bias to any characteristics of any single state within any specific regional grouping, where no states are excluded, and no state appears more than once across any of the groupings. The randomized selection of states was completed using a scientifically-accepted computer algorithm designed for randomized sampling. The randomized selection of states was run on each of the previously described regional groupings using exactly the same process and, therefore, reflects a commonly accepted method of randomized sampling. This computer algorithm employs the aforementioned sampling parameters necessary to define randomized sampling and omits any human interaction once it runs.

Based on this sampling methodology, SAS Enterprise Guide (SAS EG) 5.1 software was used to run a computer algorithm designed to randomly select states from each grouping. SAS EG 5.1 and the computer algorithm were employed to conduct the randomized selection of states. SAS EG 5.1 represents an industry-standard for generating advanced analytics and provided a rigorous, standardized tool by which to satisfy the requirements of randomized selection. The key SAS commands employed include a ''PROC

SURVEYSELECT'' statement coupled with the ''METHOD=SRS'' option used to specify simple random sampling as the sample selection method. A random number seed was generated by using the time of day from the computer's clock. The random number seed was used to produce random number generation. Note that no stratification was used within any of the nine geographically-diverse groupings to ensure there is an equal probability of selection within each grouping. For more information on this procedure and the underlying statistical methodology, please reference SAS support documentation at: *http://support.sas.com/documentation/cdl/en/statug/63033/HTML/default/viewer.htm#statug_surveyselect_sect003.htm/.*

In § 484.310, we propose to codify the names of the states selected utilizing this proposed methodology, where one state from each of the nine groupings was selected. For each of these groupings, we propose to use state borders to demarcate which Medicare certified HHAs would be required to compete in this model: Massachusetts was randomly selected from Group 1, Maryland was randomly selected from Group 2, North Carolina was randomly selected from Group 3, Florida was randomly selected from Group 4, Washington was randomly selected from Group 5, Arizona was randomly selected from Group 6, Iowa was randomly selected from Group 7, Nebraska was randomly selected from Group 8, and Tennessee was randomly selected from Group 9. Thus, if our methodology is finalized as proposed, all Medicare-certified HHAs that provide services in Massachusetts, Maryland, North Carolina, Florida, Washington, Arizona, Iowa, Nebraska, and Tennessee will be required to compete in this model.

However, should the methodology we propose in this rule change as a result of comments received during the rulemaking process, it could result in different states being selected for the model. In such an event, we would apply the final methodology and announce the selected states in the final rule. We therefore seek comment from all interested parties in every state on the randomized selection methodology proposed above and codified at § 484.310.

Based on the comments received from this proposed rule, the selection methodology for participation in the model may change from state boundaries to an approach based on sub-state regions built from CSAs/MSAs, CBSAs, rural provider level or HRRs. In that case, the goals of the model will remain the same, and therefore, we would expect to take a broadly similar approach to selecting participating regions to the approach that would be taken when regions are defined based on state boundaries. Specifically, as with the selection methodology outlined above, we would anticipate grouping sub-state regions together based on geographic proximity and other characteristics into groups of approximately equal size and then selecting some number of sub-state regions to participate from each group. The number of selected participants will be dependent on the selection methodology. We welcome public comment on these proposed state selection methodologies.

e. Use of CMS Certification Numbers (CCNs)

We are proposing that Total Performance Scores (TPS) and payment adjustments would be calculated based on an HHA's CCN [25] and, therefore, based only on services provided in the selected states. The exception to this methodology is where an HHA provides service in a state that also has a reciprocal agreement with another state. Services being provided by the HHA to beneficiaries who reside in another state would be included in the TPS and subject to payment adjustments.[26] The reciprocal agreement between states allows for an HHA to provide services to a beneficiary across state lines using its original CCN number. Reciprocal agreements are rare and, as identified using the most recent Medicare claims data from 2014, there was found to be less than 0.1 percent of beneficiaries that provided services that were being served by CCNs with reciprocal agreements across state lines. Due to the very low number of beneficiaries served across state borders as a result of these agreements, we expect there to be an inconsequential impact if we were to include these beneficiaries in the model.

[25] HHAs are required to report OASIS data and any other quality measures by its own unique CMS Certification Number (CCN) as defined under *Title 42, Chapter IV, Subchapter G,* Part § 484.20 Available at URL *http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title42/42cfr484_main_02.tpl.*

[26] See Chapter 2 of the State Operations Manual (SOM), Section 2184—Operation of HHAs Cross State Lines, stating ''When an HHA provides services across State lines, it must be certified by the State in which its CCN is based, and its personnel must be qualified in all States in which they provide services. The appropriate SA completes the certification activities. The involved States must have a written reciprocal agreement permitting the HHA to provide services in this manner.''

D. Performance Assessment and Payment Periods

1. Performance Reports

We are proposing the use of quarterly performance reports, annual payment adjustment reports, and annual publicly-available performance reports as a means of developing greater transparency of Medicare data on quality and aligning the competitive forces within the market to deliver care based on value over volume. The publicly-reported reports would inform home health industry stakeholders (consumers, physicians, hospitals) as well as all competing HHAs delivering care to Medicare beneficiaries within selected state boundaries on their level of quality relative to both their peers and their own past performance.

Competing HHAs would be scored for the quality of care delivered under the model based on their performance on measures compared to both the performance of their peers, defined by the same size cohort (either smaller- or larger-volume cohorts as defined in § 484.305), and their own past performance on the measures. We propose in § 484.305 to define larger-volume cohort to mean the group of Medicare-certified HHAs within the boundaries of a selected state that are participating in HHCAHPs in accordance with § 484.250 and to define smaller-volume cohort to mean the group of HHAs within the boundaries of a selected state that are exempt from participation in HHCAHPs in accordance with § 484.250. Where there are too few HHAs in the smaller-volume cohort in each state to compete in a fair manner (that is, when there is only one or two HHAs competing within a specific cohort), these specific HHAs would be included in the larger-volume cohort [for purposes of calculating the total performance score and payment adjustment] without being measured on HHCAHPS. We are requesting comments on this proposed methodology.

Quality performance scores and relative peer rankings would be determined through the use of a baseline year (calendar year 2015) and subsequent performance periods for each competing HHA. Further, these reports would provide competing HHAs with an opportunity to track their quality performance relative to their peers and their own past performance. Using these reports provides a convenient and timely means for competing HHAs to assess and track their own respective performance as capacity is developed to improve or sustain quality over time.

Beginning with the data collected during the first quarter of CY 2016 (that is, data for the period January 1, 2016 to March 31, 2016), and for every quarter of the model thereafter, we are proposing to provide each Medicare certified HHA with a quarterly report that contains information on their performance during the quarter. We expect to make the first quarterly report available in July 2016, and to make performance reports for subsequent quarters available in October, January and April. The final quarterly report would be made available in April 2021. The quarterly reports would include a competing HHA's model-specific performance results with a comparison to other competing HHAs within its cohort (larger- or smaller-volume) within the state boundary. These model-specific performance results would complement all quality data sources already being provided through the QIES system and any other quality tracking system possibly being employed by HHAs. We note that all performance measures that Medicare-certified HHAs will report through the QIES system are also already made available in the CASPER Reporting application. The primary difference between the two reports (CASPER reports and the model-specific performance report) is that the model-specific performance report we are proposing here consolidates the applicable performance measures used in the HHVBP model and provides a peer-ranking to other competing Medicare-certified HHAs within the same state and size-cohort. In addition, CASPER reports would provide quality data earlier than model-specific performance reports because CASPER reports are not limited by a quarterly run-out of data and a calculation of competing peer-rankings. For more information on the accessibility and functionality of the CASPER system, please reference the CASPER Provider Reporting Guide.[27]

The model-specific quarterly performance report would be made available to each HHA through a dedicated CMMI model-specific platform for data dissemination and include each HHA's relative ranking amongst its peers along with measurement scores and overall performance rankings.

We are proposing that a separate payment adjustment report would be provided once a year to each of the competing HHAs. This report would focus primarily on the payment adjustment percentage and include an explanation of when the adjustment would be applied and how this adjustment was determined relative to performance scores. Each competing HHA would receive its own payment adjustment report viewable only to that HHA.

We are also proposing a separate, annual, publicly available quality report that would provide home health industry stakeholders, including providers and suppliers that refer their patients to HHAs, with an opportunity to ensure that the beneficiaries they are referring for home health services are being provided the best possible quality of care available. We seek public comment on the proposed reporting framework described above.

2. Payment Adjustment Timeline

We propose at § 484.325 that Medicare-certified HHAs will be subject to upward or downward payment adjustments based on performance on quality measures. We propose this model would consist of 5 performance years, where each performance year would link performance to the opportunity and risk for payment adjustment up to an applicable percent as defined in proposed 42 CFR 484.305. The first performance year would transpire from January 1, 2016 through December 31, 2016, and subsequently, all other performance years would be assessed on an annual basis through 2020, unless modified through rulemaking. The first payment adjustment would begin January 1, 2018 applied to that calendar year based on 2016 performance data. Subsequently, all other payment adjustments would be made on an annual basis through the conclusion of the model, unless modified through rulemaking. We are proposing that payment adjustments will be increased incrementally over the course of the model with a maximum payment adjustment of (5 percent) upward or downward in 2018 and 2019, a maximum payment adjustment of 6 percent (upward or downward) in 2020, and a maximum payment adjustment of 8 percent (upward or downward) in 2021 and 2022. We propose to implement this model over a total of 7 years beginning on January 1, 2016, and ending on December 31, 2022.

The baseline year would run from January 1, 2015 through December 31, 2015 and provide a basis from which each respective HHA's performance would be measured in each of the performance years. Data related to performance on quality measures would continue to be provided from the baseline year through the model's tenure using a dedicated HHVBP web-based platform specifically designed to disseminate data in this model (this ''portal'' would present and archive the previously described quarterly and annual quality reports). Further, HHAs will provide performance data on the four new quality measures through this platform as well. Any new measures employed through the model's tenure, subject to rulemaking, would use data from the previous calendar year as the baseline.

New market entries (specifically, new Medicare-certified HHAs delivering care in the boundaries of selected states) would also be measured from their first full calendar year of services in the state, which would be treated as baseline data for subsequent performance years under this model. The delivery of services would be measured by the number of episodes of care for Medicare beneficiaries and used to determine whether an HHA falls into the smaller- or larger- volume cohort. Furthermore, these new market entries would be competing under the HHVBP model in the first full calendar year following the full calendar year baseline period.

HHAs would be notified in advance of their first performance level and payment adjustment being finalized, based on the 2016 performance period (January 1, 2016 to December 31, 2016), with their first payment adjustment to be applied January 1, 2018 through December 31, 2018. Each HHA would be notified of this first pending payment adjustment on August 1, 2017 and a preview period would run for 10 days through August 11, 2017. This preview period would provide each competing HHA an opportunity to reconcile any performance assessment issues relating to the calculation of scores prior to the payment adjustment taking effect, in accordance with the process proposed in section H—Preview and Period to Request Recalculation. Once the preview period ends, any changes would be reconciled and a report finalized no later than November 1, 2017 (or 60 days prior to the payment adjustment taking affect).

Subsequent payment adjustments would be calculated based on the applicable full calendar year of performance data from the quarterly reports, with HHAs notified and payments adjusted, respectively, every year thereafter. As a sequential example, the second payment adjustment would occur January 1, 2019 based on a full 12 months of the CY 2017 performance period. Notification of the adjustment

[27] The Casper Reporting Guide is available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/downloads/HHQICASPER.pdf*).

would occur on August 1, 2018, along with the preview period transpiring through August 11, 2018 and followed by reconciliation through September 10, 2018. Subsequent payment adjustments would continue to follow a similar timeline and process. We seek public comment on this payment adjustment schedule.

Beginning in CY 2019, we may consider revising this payment adjustment schedule and updating the payment adjustment more frequently than once each year if it is determined that a more timely application of the adjustment as it relates to performance improvement efforts that have transpired over the course of a calendar year would generate increased improvement in quality measures. Specifically, we would expect that having payment adjustments transpire closer together through more frequent performance periods would accelerate improvement in quality measures because HHAs would be able to justify earlier investments in quality efforts and be incentivized for improvements. In effect, this concept may be operationalized to create a smoothing effect where payment adjustments are based on overlapping 12-month performance periods that occur every 6 months rather than annually. As an example, the normal 12-month performance period occurring from January 1, 2020 to December 31, 2020 might have an overlapping 12-month performance period occurring from July 1, 2020 to June 30, 2021. Following the regularly scheduled January 1, 2022 payment adjustments, the next adjustments could be applied to payments beginning on July 1, 2022 through December 31, 2022. Depending on if and when more frequent payment adjustments would be applied, performance would be calculated based on the applicable 12-months of performance data, HHAs notified, and payments adjusted, respectively, every six months thereafter, until the conclusion of the model. As a result, separate performance periods would have a 6-month overlap through the conclusion of the model. HHAs would be notified through rulemaking and be given the opportunity to comment on any proposed changes to the frequency of payment adjustments. We seek public comment on the proposed payment adjustment schedule described above.

E. Quality Measures

1. Objectives

Initially, we propose the measures for the HHVBP model would be predominantly drawn from the current Outcome and Assessment Information Set (OASIS),[28] which is familiar to the home health industry and readily available for utilization by the proposed model. In addition, the HHVBP model provides us with an opportunity to examine a broad array of quality measures that address critical gaps in care. A recent comprehensive review of the VBP experience over the past decade, sponsored by the Office of the Assistant Secretary for Planning and Evaluation (ASPE), identified several near- and long-term objectives for HHVBP measures.[29] The recommended objectives emphasize measuring patient outcomes and functional status; appropriateness of care; and incentives for providers to build infrastructure to facilitate measurement within the quality framework.[30] The following seven objectives derived from this study served as guiding principles for the selection of the proposed measures for the HHVBP model:

1. Use a broad measure set that captures the complexity of the HHA service provided;

2. Incorporate the flexibility to include Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 proposed measures that are cross-cutting amongst post-acute care settings;

3. Develop second-generation measures of patient outcomes, health and functional status, shared decision making, and patient activation;

4. Include a balance of process, outcome, and patient experience measures;

5. Advance the ability to measure cost and value;

6. Add measures for appropriateness or overuse; and,

7. Promote infrastructure investments.

2. Proposed Methodology for Selection of Quality Measures

a. Direct Alignment With National Quality Strategy Priorities

A central driver of the proposed measure selection process was incorporating innovative thinking from the field while simultaneously drawing on the most current evidence-based literature and documented best practices. Broadly, we propose measures that have a high impact on care delivery and support the combined priorities of HHS and CMS to improve health outcomes, quality, safety, efficiency, and experience of care for patients. To frame the selection process, we utilized the domains described in the CMS Quality Strategy that maps to the six National Quality Strategy (NQS) priority areas (*see* Figure 3 for CMS domains).[31]

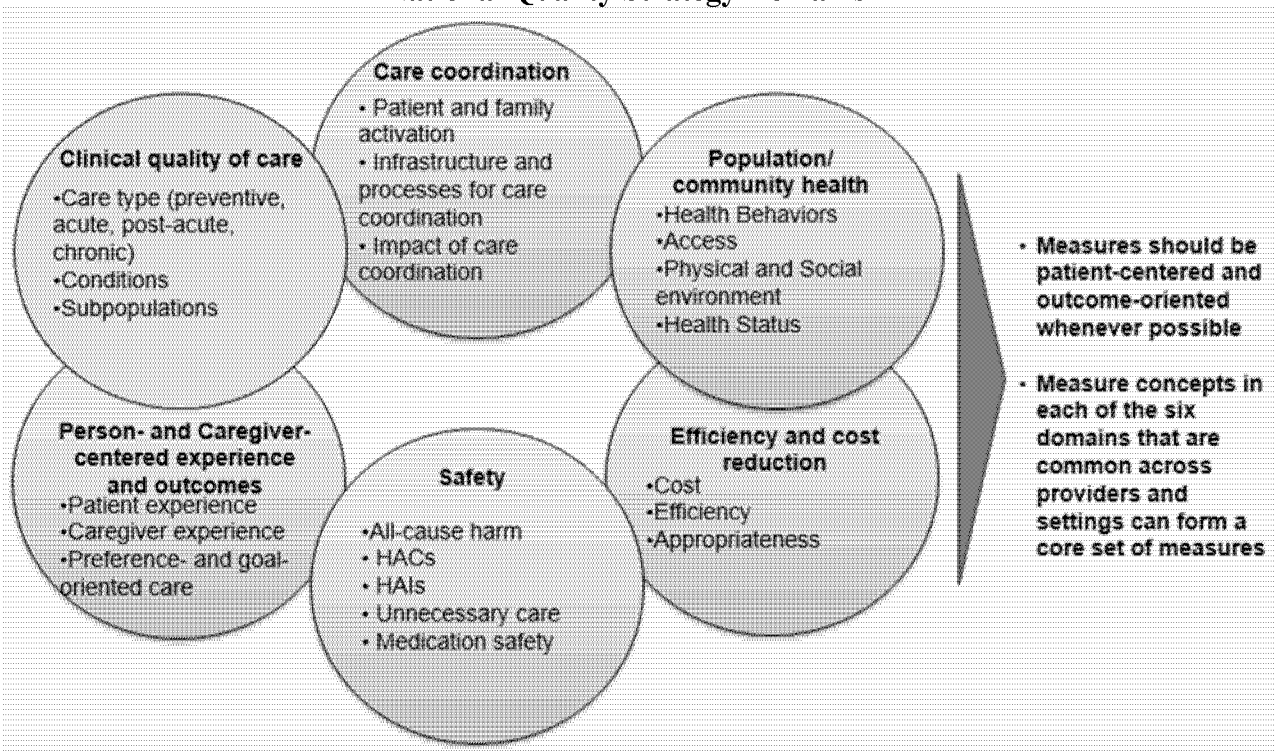
[28] For detailed information on OASIS see the official CMS OASIS web resource available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/OASIS/index.html?redirect=/oasis.* See also industry resource available at *http://www.oasisanswers.com/index.htm,* specifically updated OASIS component information available at *www.oasisanswers.com/LiteratureRetrieve.aspx?ID=215074*).

[25] U.S. Department of Health and Human Services. Office of the Assistant Seretary for Planning and Evaluation (ASPE) (2014) *Measuring Success in Health Care Value-Based Purchasing Programs.* Cheryl L. Damberg et. al. on behalf of RAND Health.

[30] *Id.*

[3131] The CMS Quality Strategy is discussed in broad terms at URL *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/CMS-Quality-Strategy.html.* CMS Domains appear presentations by CMS (xxxxx) and ONC (available at *http://www.cms.gov/eHealth/downloads/Webinar_eHealth_March25_eCQM101.pdf*) and a CMS discussion of the NQS Domains can be found at URL *http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/2014_ClinicalQualityMeasures.html.*

Figure 3: CMS Framework for Measurement Mapped to the Six National Quality Strategy Domains



b. Referenced Quality Measure Authorities

We propose at § 484.315 that Medicare-certified HHAs would be evaluated using a starter set of quality measures (''starter set'' refers to the proposed quality measures for the first year of this model) designed to encompass multiple NQS domains, and provide future flexibility to incorporate and study newly developed measures over time. New and evolving measures would be considered for inclusion in subsequent years of this model and proposed through future rulemaking.

To create the proposed starter set we began researching the current set of OASIS measures that are being used within the health home environment.[32] Following that, we searched for endorsed quality measures using the National Quality Forum (NQF) Quality Positioning System (QPS),[33] selecting measures that address all possible NQS domains. We further examined measures on the CMS-generated Measures Under Consideration (MUC) list,[34] and reviewed other relevant measures used within the health care industry but not currently used in the home health setting, as well as proposed measures required by the IMPACT Act of 2014. Finally, we searched the National Quality Measures Clearinghouse (NQMS) to identify evidence-based measures and measure sets.

c. Key Policy Considerations and Data Sources

To ensure proposed measures for the HHVBP model take a more holistic view of the patient beyond a particular disease state or care setting, we are proposing measures, which include outcome measures as well as process measures, that have the potential to follow patients across multiple settings, reflect a multi-faceted approach, and foster the intersection of health care delivery and population health. A key consideration behind this approach is to use in performance year one (PY1) of the model proven measures that are readily available and meet a high impact need, and in subsequent model years augment this starter set with innovative measures that have the potential to be impactful and fill critical measure gap areas. All substantive changes or additions to the proposed starter set or new measures would be proposed for inclusion in future rulemaking. This approach to quality measure selection aims to balance the burden of collecting data with the inclusion of new and important measures. We carefully considered the potential burden on HHAs to report the measure data when developing the proposed starter set, and prioritized proposed measures that would draw both from claims data and data already collected in OASIS.

The majority of the proposed measures in this model would use OASIS data currently being reported to CMS and linked to state-specific CCNs for selected states in order to promote consistency and to reduce the data collection burden for providers. Utilizing primarily OASIS data would allow the model to leverage reporting structures already in place to evaluate performance and identify weaknesses in care delivery. This model would also afford the opportunity to study measures developed in other care settings and new to the home health industry (hereinafter referred to as ''New Measures''). Many of the proposed New Measures have been used in other health care settings and are readily applicable to the home health environment (for example, influenza vaccination coverage for health care personnel). Proposed New Measures for PY1 are described in detail below. We

[32] All data for the starter set measures, not including New Measures, is currently collected from HHAs under §§ 484.20 and 484.210.

[33] The NQF Quality Positioning System is available at *http://www.qualityforum.org/QPS.*

[34] To review the MUC List see *https://www.qualityforum.org/Setting_Priorities/Partnership/Measures_Under_Consideration_List_2014.aspx.*

propose in PY1 to collect data on these New Measures which have already been tested for validity, reliability, usability/feasibility, and sensitivity in other health care settings but have not yet been validated within the home health setting. HHVBP will study if their use in the home health setting meets validity, reliability, usability/feasibility, and sensitivity to statistical variations criteria. For PY1, we propose HHA's would earn points to be included in the Total Performance Score (TPS) simply for reporting data on New Measures (*see* Section—Performance Scoring Methodology). To the extent we determine that one or more of the proposed New Measures is valid and reliable for the home health setting, we will consider proposing in future rulemaking to score Medicare-certified HHAs on their actual performance on the measure.

3. Proposed Measures

The initial set of measures proposed for PY1 of the model utilizes data collected via OASIS, Medicare claims, HHCAHPS survey data, and data reported directly from the HHAs to CMS. In total there are 10 process measures and 15 outcome measures (*see* Figure 4a) plus the four New Measures (*see* Figure 4b). Process measures evaluate the rate of HHA use of specific evidence-based processes of care based on the evidence available. Outcomes measures illustrate the end result of care delivered to HHA patients. When available, NQF endorsed measures would be used. This set of measures would be subject to change or retirement during subsequent model years and revised through the rulemaking process. For example, we may propose in future rulemaking to remove one or more of these measures if, based on the evidence, we conclude that it is no longer appropriate for the model because, for example, performance on it has topped-out. We would also consider proposing to update the measure set if new measures that address gaps within the NQS domains became available. We would also consider proposing adjustments to the measure set based on lessons learned during the course of the model. For instance, in light of the passage of the IMPACT Act of 2014, which mandates the collection and use of standardized post-acute care assessment data, we would consider proposing in future rulemaking to adopt measures that meet the requirements of the IMPACT Act as soon as they became available.

We seek public comment on the methodology for constructing the proposed starter set of quality measures and on the proposed selected measures.

FIGURE 4a—PY1 PROPOSED MEASURES [35]

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Clinical Quality of Care.	Improvement in Ambulation-Locomotion.	Outcome	NQF0167	OASIS (M1860).	Number of home health episodes of care where the value recorded on the discharge assessment indicates less impairment in ambulation/locomotion at discharge than at the start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.
Clinical Quality of Care.	Improvement in Bed Transferring.	Outcome	NQF0175	OASIS (M1850).	Number of home health episodes of care where the value recorded on the discharge assessment indicates less impairment in bed transferring at discharge than at the start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.
Clinical Quality of Care.	Improvement in Bathing.	Outcome	NQF0174	OASIS (M1830).	Number of home health episodes of care where the value recorded on the discharge assessment indicates less impairment in bathing at discharge than at the start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.
Clinical Quality of Care.	Improvement in Dyspnea.	Outcome	NA	OASIS (M1400).	Number of home health episodes of care where the discharge assessment indicates less dyspnea at discharge than at start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.

[35] For more detailed information on the proposed measures utilizing OASIS refer to the *OASIS-C1/ICD-9, Changed Items & Data Collection Resources* dated September 3, 2014 available at *www.oasisanswers.com/LiteratureRetrieve.aspx?ID=215074*. For NQF endorsed measures see The NQF Quality Positioning System available at *http://www.qualityforum.org/QPS*. For non-NQF measures using OASIS see links for data tables related to OASIS measures at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIQualityMeasures.html*. For information on HHCAHPS measures see *https://homehealthcahps.org/SurveyandProtocols/SurveyMaterials.aspx*.

FIGURE 4a—PY1 PROPOSED MEASURES [35]—Continued

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Clinical Quality of Care.	Timely Initiation of Care.	Process ..	NQF0526	OASIS (M0102; M0030).	Number of home health episodes of care in which the start or resumption of care date was either on the Physician-specified date or within 2 days of their referral date or inpatient discharge date whichever is later. For resumption of care, per the Medicare Condition of Participation, the patient must be seen within 2 days of inpatient discharge, even if the physician specifies a later date.	Number of home health episodes of care ending with discharge, death, or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Communication & Care Coordination.	Discharged to Community.	Outcome	NA	OASIS (M2420).	Number of home health episodes where the assessment completed at the discharge indicates the patient remained in the community after discharge.	Number of home health episodes of care ending with discharge or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Communication & Care Coordination.	Care Management: Types and Sources of Assistance.	Process ..	NA	OASIS (M2102).	Multiple data elements	Multiple data elements.
Efficiency & Cost Reduction.	Acute Care Hospitalization: Unplanned Hospitalization during first 60 days of Home Health; Hospitalization during first 30 days of Home Health.	Outcome	NQF0171; NQF2380 (Under review for Home Health).	CCW (Claims)	Number of home health stays for patients who have a Medicare claim for an admission to an acute care hospital in the 60 days following the start of the home health stay.	Number of home health stays that begin during the 12-month observation period. A home health stay is a sequence of home health payment episodes separated from other home health payment episodes by at least 60 days.
Efficiency & Cost Reduction.	Emergency Department Use without Hospitalization.	Outcome	NQF0173	CCW (Claims)	Number of home health stays for patients who have a Medicare claim for outpatient emergency department use and no claims for acute care hospitalization in the 60 days following the start of the home health stay.	Number of home health stays that begin during the 12-month observation period. A home health stay is a sequence of home health payment episodes separated from other home health payment episodes by at least 60 days.
Patient Safety	Pressure Ulcer Prevention and Care.	Process ..	NQF0538	OASIS (M1300; M2400).	Number of home health episodes during which interventions to prevent pressure ulcers were included in the Physician-ordered plan of care and implemented (since the previous OASIS assessment).	Number of home health episodes of care ending with discharge, or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Patient Safety	Improvement in Pain Interfering with Activity.	Outcome	NQF0177	OASIS (M1242).	Number of home health episodes of care where the value recorded on the discharge assessment indicates less frequent pain at discharge than at the start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.

FIGURE 4a—PY1 PROPOSED MEASURES [35]—Continued

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Patient Safety	Improvement in Management of Oral Medications.	Outcome	NQF0176	OASIS (M2020).	Number of home health episodes of care where the value recorded on the discharge assessment indicates less impairment in taking oral medications correctly at discharge than at start (or resumption) of care.	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions
Patient Safety	Multifactor Fall Risk Assessment Conducted for All Patients who Can Ambulate.	Process ..	NQF0537	OASIS (M1910).	Number of home health episodes in which patients had a multi-factor fall risk assessment at start/resumption of care.	Number of home health episodes of care ending with discharge, death, or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Patient Safety	Prior Functioning ADL/IADL.	Outcome	NQF0430	OASIS (M1900).	The number (or proportion) of a clinician's patients in a particular risk adjusted diagnostic category who meet a target threshold of improvement in Daily Activity (that is, ADL and IADL) functioning.	All patients in a risk adjusted diagnostic category with a Daily Activity goal for an episode of care Cases to be included in the denominator could be identified based on ICD–9 codes or alternatively, based on CPT codes relevant to treatment goals focused on Daily Activity function.
Patient & Caregiver-Centered Experience.	Care of Patients.	Outcome	.....	CAHPS	NA	NA.
Patient & Caregiver-Centered Experience.	Communications between Providers and Patients.	Outcome	.....	CAHPS	NA	NA.
Patient & Caregiver-Centered Experience.	Specific Care Issues.	Outcome	.....	CAHPS	NA	NA.
Patient & Caregiver-Centered Experience.	Overall rating of home health care and.	Outcome	.....	CAHPS	NA	NA.
Patient & Caregiver-Centered Experience.	Willingness to recommend the agency.	Outcome	.....	CAHPS	NA	NA.
Population/Community Health.	Depression Assessment Conducted.	Process ..	NQF0518	OASIS (M1730).	Number of home health episodes in which patients were screened for depression (using a standardized depression screening tool) at start/resumption of care.	Number of home health episodes of care ending with discharge, death, or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Population/Community Health.	Influenza Vaccine Data Collection Period: Does this episode of care include any dates on or between October 1 and March 31?	Process ..	NA	OASIS (M1041).	NA	NA.

FIGURE 4a—PY1 PROPOSED MEASURES [35]—Continued

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Population/ Community Health.	Influenza Immunization Received for Current Flu Season.	Process ..	NQF0522	OASIS (M1046).	Number of home health episodes during which patients (a) received vaccination from the HHA or (b) had received vaccination from HHA during earlier episode of care, or (c) was determined to have received vaccination from another provider.	Number of home health episodes of care ending with discharge, or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Population/ Community Health.	Pneumococcal Polysaccharide Vaccine Ever Received.	Process ..	NQF0525	OASIS (M1051).	Number of home health episodes during which patients were determined to have ever received Pneumococcal Polysaccharide Vaccine (PPV).	Number of home health episodes of care ending with discharge or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.
Population/ Community Health.	Reason Pneumococcal vaccine not received.	Process ..	NA	OASIS (M1056).	NA	NA.
Clinical Quality of Care.	Drug Education on All Medications Provided to Patient/ Caregiver during all Episodes of Care.	Process ..	NA	OASIS (M2015).	Number of home health episodes of care during which patient/caregiver was instructed on how to monitor the effectiveness of drug therapy, how to recognize potential adverse effects, and how and when to report problems (since the previous OASIS assessment).	Number of home health episodes of care ending with a discharge or transfer to inpatient facility during the reporting period, other than those covered by generic or measure-specific exclusions.

FIGURE 4b—PY1 PROPOSED NEW MEASURES

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Patient Safety	Adverse Event for Improper Medication Administration and/or Side Effects.	Outcome	NA	Reported by HHAs through Web Portal.	Number of home health episodes of care where the discharge/transfer assessment indicated the patient required emergency treatment from a hospital emergency department related to improper administration or medication side effects (adverse drug reactions).	Number of home health episodes of care ending with a discharge during the reporting period, other than those covered by generic or measure-specific exclusions.

FIGURE 4b—PY1 PROPOSED NEW MEASURES—Continued

NQS domains	Measure title	Measure type	Identifier	Data source	Numerator	Denominator
Population/ Community Health.	Influenza Vaccination Coverage for Home Health Care Personnel.	Process ..	NQF0431 (Used in other care settings, not Home Health).	Reported by HHAs through Web Portal.	Healthcare personnel in the denominator population who during the time from October 1 (or when the vaccine became available) through March 31 of the following year: (a) Received an influenza vaccination administered at the healthcare facility, or reported in writing or provided documentation that influenza vaccination was received elsewhere: Or (b) were determined to have a medical contraindication/condition of severe allergic reaction to eggs or to other components of the vaccine or history of Guillain-Barre Syndrome within 6 weeks after a previous influenza vaccination; or (c) declined influenza vaccination; or (d) persons with unknown vaccination status or who do not otherwise meet any of the definitions of the above-mentioned numerator categories.	Number of healthcare personnel who are working in the healthcare facility for at least 1 working day between October 1 and March 31 of the following year, regardless of clinical responsibility or patient contact.
Population/ Community Health.	Herpes zoster (Shingles) vaccination: Has the patient ever received the shingles vaccination?.	Process ..	NA	Reported by HHAs through Web Portal.	Total number of Medicare beneficiaries aged 60 years and over who report having ever received zoster vaccine (shingles vaccine).	Total number of Medicare beneficiaries aged 60 years and over receiving services from the HHA.
Communication & Care Coordination.	Advanced Care Plan.	Process ..	NQF0326	Reported by HHAs through Web Portal.	Patients who have an advance care plan or surrogate decision maker documented in the medical record or documentation in the medical record that an advanced care plan was discussed but the patient did not wish or was not able to name a surrogate decision maker or provide an advance care plan.	All patients aged 65 years and older.

4. Additional Information on HHCAHPS

Figure 5 provides details on the elements of the Home Health Care Consumer Assessment of Healthcare Providers and Systems Survey (HHCAHPS) we propose to include in the PY1 starter set. The HHVBP model would not alter the HHCAHPS current scoring methodology or the participation requirements in any way. Details on participation requirements for HHCAHPS can be found at 42 CFR 484.250 [36] and details on HHCAHPS scoring methodology are available at *https://homehealthcahps.org/SurveyandProtocols/SurveyMaterials.aspx*.[37]

[36] 76 FR 68606, Nov. 4, 2011, as amended at 77 FR 67164, Nov. 8, 2012; 79 FR 66118, Nov. 6, 2014.

[37] Detailed scoring information is contained in the Protocols and Guidelines manual posted on the HHCAHPS Web site and available at *https://homehealthcahps.org/Portals/0/PandGManual_NOAPPS.pdf*.

FIGURE 5—HOME HEALTH CARE CONSUMER ASSESSMENT OF HEALTHCARE PROVIDERS AND SYSTEMS SURVEY (HHCAHPS) COMPOSITES

	Response categories
Care of Patients:	
Q9. In the last 2 months of care, how often did home health providers from this agency seem informed and up-to-date about all the care or treatment you got at home?.	Never, Sometimes, Usually, Always.
Q16. In the last 2 months of care, how often did home health providers from this agency treat you as gently as possible?.	Never, Sometimes, Usually, Always.
Q19. In the last 2 months of care, how often did home health providers from this agency treat you with courtesy and respect?.	Never, Sometimes, Usually, Always.
Q24. In the last 2 months of care, did you have any problems with the care you got through this agency?.	Yes, No.
Communications Between Providers & Patients:	
Q2. When you first started getting home health care from this agency, did someone from the agency tell you what care and services you would get?.	Yes, No.
Q15. In the past 2 months of care, how often did home health providers from this agency keep you informed about when they would arrive at your home?.	Never, Sometimes, Usually, Always.
Q17. In the past 2 months of care, how often did home health providers from this agency explain things in a way that was easy to understand?.	Never, Sometimes, Usually, Always.
Q18. In the past 2 months of care, how often did home health providers from this agency listen carefully to you?.	Never, Sometimes, Usually, Always.
Q22. In the past 2 months of care, when you contacted this agency's office did you get the help or advice you needed?.	Yes, No.
Q23. When you contacted this agency's office, how long did it take for you to get the help or advice you needed?.	Same day; 1 to 5 days; 6 to 14 days; More than 14 days.
Specific Care Issues:	
Q3. When you first started getting home health care from this agency, did someone from the agency talk with you about how to set up your home so you can move around safely?.	Yes, No.
Q4. When you started getting home health care from this agency, did someone from the agency talk with you about all the prescription medicines you are taking?.	Yes, No.
Q5. When you started getting home health care from this agency, did someone from the agency ask to see all the prescription medicines you were taking?.	Yes, No.
Q10. In the past 2 months of care, did you and a home health provider from this agency talk about pain?.	Yes, No.
Q12. In the past 2 months of care, did home health providers from this agency talk with you about the purpose for taking your new or changed prescription medicines?.	Yes, No.
Q13. In the last 2 months of care, did home health providers from this agency talk with you about when to take these medicines?.	Yes, No.
Q14. In the last 2 months of care, did home health providers from this agency talk with you about the important side effects of these medicines?.	Yes, No.
Global Type Measures:	
What is your overall rating of your home health care?	Use a rating scale (1–10).
Would you be willing to recommend this home health agency to family and friends?	Never, Sometimes, Usually, Always.

5. New Measures

As discussed in the previous section, the New Measures we propose are not currently reported by Medicare-certified HHAs to CMS, but we believe fill gaps in the NQS Domains not completely covered by existing measures in the home health setting. All Medicare-certified HHAs in selected states, regardless of cohort size or number of episodes, will be required to submit data on the New Measures for all Medicare beneficiaries to whom they provide home health services within the state (unless an exception applies). We propose at § 484.315 that HHAs will be required to report data on these New Measures. Competing Medicare-certified HHAs would submit data through a dedicated HHVBP web-based platform. This web-based platform would function as a means to collect and distribute information from and to competing Medicare-certified HHAs. Also, for those HHAs with a sufficient number of episodes of care to be subject to a payment adjustment, New Measures scores included in the final TPS for PY1 are only based on whether the HHA has submitted data to the HHVBP web-based platform or not. We are proposing the following New Measures for competing Medicare-certified HHAs:

- Advance Care Planning;
- Adverse Event for Improper Medication Administration and/or Side Effects;
- Influenza Vaccination Coverage for Home Health Care Personnel; and,
- Herpes Zoster (Shingles) Vaccination received by HHA patients.

a. Advance Care Planning

Advance Care Planning is an NQF-endorsed process measure in the NQS domain of Person- and Caregiver-centered experience and outcomes (see Figure 3). This measure is currently endorsed at the group practice/individual clinician level of analysis. We believe its adoption under the HHVBP model represents an opportunity to study this measure in the home health setting. This is an especially pertinent measure for home health care to ensure that the wishes of the patient regarding their medical, emotional, or social needs are met across care settings. The Advance Care Planning measure would focus on Medicare beneficiaries, including dually-eligible beneficiaries.

The measure would be numerically expressed by a ratio whose numerator and denominator are as follows:

Numerator: The measure would calculate the percentage of patients age 18 years and older served by the HHA that have an advance care plan or surrogate decision maker [38] documented

[38] A **surrogate decision maker**, also known as a health care proxy or agent, advocates for patients who are unable to make **decisions** or speak for themselves about personal health care such that

in the clinical record or documentation in the clinical record that an advance care plan was discussed, but the patient did not wish or was not able to name a surrogate decision maker or provide an advance care plan.

Denominator: All patients aged 65 years and older admitted to the HHA.

Information on this numerator and denominator would be reported by HHAs through the HHVBP web-based platform, in addition to other information related to this measure as the Secretary deems appropriate.

Advance care planning ensures that the health care plan is consistent with the patient's wishes and preferences. Therefore, studying this measure within the HHA environment allows for further analysis of planning for the ''what ifs'' that may occur during the patient's lifetime. In addition, the use of this measure is expected to result in an increase in the number of patients with advance care plans. Increased advance care planning among the elderly is expected to result in enhanced patient autonomy and reduced hospitalizations and in-hospital deaths.[39]

We welcome public comments on this measure's proposed adoption under the HHVBP model.

b. Adverse Event for Improper Medication Administration and/or Side Effects

Adverse Event for Improper Medication Administration and/or Side Effects is a measure that aligns with the NQS domain of Safety (specifically ''medication safety''—*see* Figure 3) with the goal of making care safer by reducing harm caused in the delivery of care.

An adverse drug event (ADE) is an injury related to medication use.[40] More specifically, it is ''an injury resulting from medical intervention related to a drug'' and ''encompasses harms that occur during medical care that are directly caused by the drug including but not limited to medication errors, adverse drug reactions and overdoses.'' [41] A medication error is a mishap ''that occur[s] during prescribing, transcribing, dispensing, administering, adherence, or monitoring a drug'' and should be distinguished from an adverse drug reaction, which is harm directly caused by the drug at normal doses, during normal use.[42] The National Quality Forum has included ADEs as a Serious Reportable Event (SRE) in the category of Care Management, defining said event as a ''patient death or serious injury associated with a medication error (for example, errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration)'', noting that ''. . . the high rate of medication errors resulting in injury and death makes this event important to endorse again.'' [43]

The annual incidence of ADEs in health care in the United States is high; authoritative estimates indicate that each year 400,000 preventable ADEs occur in hospitals, 800,000 in long term care settings and in excess of 500,000 among Medicare patients in outpatient settings.[44] The cost of ADEs occurring in hospitals alone has been estimated at $5.6 billion.[45] Older patients are particularly vulnerable to adverse drug reactions and are seven times as likely as younger persons to experience an adverse drug event requiring hospitalization.[46] Further, we are specifically concerned that ''Analyses of cost data indicate that Medicare patients experience significantly higher rates of ADEs than both privately insured and Medicaid-covered patients.'' [47] Prevention of ADEs is a national Patient Safety Priority pursuant to the ADE National Action Plan, which focuses on vulnerable population groups, one of which is the elderly. Most work on ADEs has taken place in the hospital setting. There is little available data regarding the incidence and types of ADEs occurring in home health care for the elderly under Medicare. We believe there is a critical need for such information with regard to patient safety, and we are proposing this measure to address that need.

The measure would be numerically expressed by a ratio whose numerator and denominator are as follows:

Numerator: Number of home health episodes of care where the discharge/transfer assessment indicated the patient required emergency treatment from a hospital emergency department related to improper administration or medication side effects (adverse drug reactions).

Denominator: Number of home health episodes of care ending with a discharge during the performance period. Numbers to be specifically excluded from the ratio as a measure-specific exclusion are those relating to home health episodes of care for which emergency department use or the reason for emergency department use is unknown at transfer or discharge. Stated otherwise, the measure would be expressed by a ratio indicating the relationship between (i) the number of emergency treatments transferring or discharged patients sought or received for OASIS C M2310, ''1-Improper medication administration, adverse drug reactions, medication side effects, toxicity, anaphylaxis'' and (ii) the number of emergency treatments sought or received for one of the other reasons identified by OASIS–C M2310. Neither

someone else must provide direction in **decision-making**, as the **surrogate decision-maker**.

[39] Lauren Hersch Nicholas, Ph.D., MPP et al. Regional Variation in the Association Between Advance Directives and End-of-Life Medicare Expenditures. JAMA. 2011; 306(13): 1447–1453. doi:10.1001/jama.2011.1410.

[40] Reporting of Adverse Drug Events: Examination of a Hospital Incident Reporting System. Radhika Desikan, Melissa J. Krauss, W. Claiborne Dunagan, Erin Christensen Rachmiel, Thomas Bailey, Victoria J. Fraser *http://www.ahrq.gov/professionals/quality-patient-safety/patient-safety-resources/resources/advances-in-patient-safety/vol1/Desikan.pdf.*

[41] The Office of Disease Prevention and Health Promotion (ODPHP), National Action Plan for ADE Prevention, *available at: http://www.health.gov/hai/pdfs/ADE-Action-Plan-Executive-Summary.pdf,* citing VA Center for Medication Safety And VHA Pharmacy Benefits Management Strategic Healthcare Group and the Medical Advisory Panel Adverse Drug Events, Adverse Drug Reactions and Medication Errors Frequently Asked Questions *(November 2006), available at: http://www.va.gov/ms/professionals/medications/adverse_drug_reaction_faq.pdfhttp://www.va.gov/ms/professionals/medications/adverse_drug_reaction_faq.pdf.*

[42] VA Center for Medication Safety And VHA Pharmacy Benefits Management Strategic Healthcare Group and the Medical Advisory Panel Adverse Drug Events, Adverse Drug Reactions and Medication Errors Frequently Asked Questions *(November 2006), available at: http://www.va.gov/ms/professionals/medications/adverse_drug_reaction_faq.pdf.http://www.va.gov/ms/professionals/medications/adverse_drug_reaction_faq.pdf.* Note that this VA document urges that the term Adverse Drug Reaction should generally be used rather than the term ''side effect'' because the latter '' tends to normalize the concept of injury from drugs. This approach has been adopted in the National Action Plan for ADE Prevention, in which the term ''side effects'' does not appear. See: The Office of Disease Prevention and Health Promotion (ODPHP), National Action Plan for ADE Prevention, *available at: http://www.health.gov/hai/pdfs/ADE-Action-Plan-Executive-Summary.pdf.*

[43] National Quality Forum, Serious Reportable Events in Healthcare-2011, at 9. (2011), *available at: http://www.qualityforum.org/Publications/2011/12/Serious_Reportable_Events_in_Healthcare_2011.aspxhttp://www.qualityforum.org/Publications/2011/12/Serious_Reportable_Events_in_Healthcare_2011.aspx.*

[44] The Institute of Medicine, Preventing Medication Errors (2006), at 5.). *Available at: http://books.nap.edu/openbook.php?record_id=11623&page=5.*

[45] National Quality Forum, NQF-Endorsed Measures for Patient Safety *DRAFT REPORT FOR COMMENT* (May 28, 2014), at 6. *Available at: www.qualityforum.org/WorkArea/linkit.aspx?LinkIdentifier=id.*

[46] Emergency Hospitalizations for Adverse Drug Events in Older Americans Daniel S. Budnitz, M.D., M.P.H., Maribeth C. Lovegrove, M.P.H., Nadine Shehab, Pharm.D., M.P.H., and Chesley L. Richards, M.D., M.P.H.,N Engl J Med 2011; 365: 2002–2012 *available at: http://www.nejm.org/doi/full/10.1056/NEJMsa1103053.*

[47] The Office of Disease Prevention and Health Promotion (ODPHP), National Action Plan for ADE Prevention, *available at: http://www.health.gov/hai/pdfs/ADE-Action-Plan-Executive-Summary.pdf.*

number would include (a) incidents where the reason checked on M2310 is ''UK-Reason unknown'' or (b) incidents where use of emergency department was unknown at transfer or discharge. Data for this measure would be reported by HHAs through the dedicated HHVBP web-based platform based on OASIS C/ICD 9/10 Items M2300 Emergent Care and M2310 Reasons for Emergent Care, in addition to other information related to this measure as the Secretary deems appropriate.

We welcome public comments on this measure's proposed adoption under the HHVBP model.

c. Influenza Vaccination Coverage for Home Health Care Personnel

Staff Immunizations (Influenza Vaccination Coverage among Health Care Personnel) (NQF #0431) is an NQF-endorsed measure that addresses the NQS domain of Population Health (*see* Figure 3). The measure is currently endorsed in Ambulatory Care; Ambulatory Surgery Center (ASC), Ambulatory Care; Clinician Office/Clinic, Dialysis Facility, Hospital/Acute Care Facility, Post-Acute/Long Term Care Facility; Inpatient Rehabilitation Facility, Post-Acute/Long Term Care Facility; Long Term Acute Care Hospital, and Post-Acute/Long Term Care Facility: Nursing Home/Skilled Nursing Facility. Home health care is among the only remaining settings for which the measure has not been endorsed. We believe the proposed HHVBP model presents an opportunity to study this measure in the home health setting. This measure is currently reported in multiple CMS quality reporting programs, including Ambulatory Surgical Center Quality Reporting, Hospital Inpatient Quality Reporting, and Long-Term Care Hospital Quality Reporting; we believe its adoption under the proposed HHVBP model presents an opportunity for alignment in our quality programs. The documentation of staff immunizations is also a standard required by many HHA accrediting organizations. We believe that this measure would be appropriate for HHVBP because it addresses total population health across settings of care by reducing the exposure of individuals to a potentially avoidable virus.

The measure would be numerically expressed by a ratio whose numerator and denominator are as follows:

Numerator: The measure would calculate the percentage of home health care personnel who receive the influenza vaccine, and document those who do not receive the vaccine in the articulated categories below:

(1) Received an influenza vaccination administered at the health care agency, or reported in writing (paper or electronic) or provided documentation that influenza vaccination was received elsewhere; or

(2) Were determined to have a medical contraindication/condition of severe allergic reaction to eggs or to other component(s) of the vaccine, or history of Guillain-Barré Syndrome within 6 weeks after a previous influenza vaccination; or

(3) Declined influenza vaccination; or

(4) Persons with unknown vaccination status or who do not otherwise meet any of the definitions of the above-mentioned numerator categories.

Each of the above groups would be divided by the number of health care personnel who are working in the HHA for at least one working day between October 1 and March 31 of the following year, regardless of clinical responsibility or patient contact.

Denominator: This measure collects the number of home health care personnel who, during the flu season:[48] Denominators are to be calculated separately for the following three groups:

1. Employees: All persons who receive a direct paycheck from the reporting HHA (that is, on the agency's payroll);

2. Licensed independent practitioners: Include physicians (MD, DO), advanced practice nurses, and physician assistants only who are affiliated with the reporting agency who do not receive a direct paycheck from the reporting HHA; and

3. Adult students/trainees and volunteers: Include all adult students/trainees and volunteers who do not receive a direct paycheck from the reporting HHA.

This proposed measure for the HHVBP model is expected to result in increased influenza vaccination among home health professionals. Reporting health care personnel influenza vaccination status would allow HHAs to better identify and target unvaccinated personnel. Increased influenza vaccination coverage among HHA personnel would be expected to result in reduced morbidity and mortality related to influenza virus infection among patients, especially elderly and vulnerable populations.[49]

Information on the above numerator and denominator would be reported by HHAs through the HHVBP web-based platform, in addition to other information related to this measure as the Secretary deems appropriate. We welcome public comments on this measure's proposed adoption under the HHVBP model.

d. Herpes Zoster Vaccine (Shingles Vaccine) for Patients

We are proposing to adopt this measure for the HHVBP model because it aligns with the NQS Quality Strategy Goal to Promote Effective Prevention & Treatment of Chronic Disease. Currently this proposed measure is not endorsed by NQF or collected in OASIS. However, due to the severe physical consequences of symptoms associated with shingles,[50] we view its adoption under the HHVBP model as an opportunity to perform further study on this measure. The results of this analysis could provide the necessary data to meet NQF endorsement criteria. The measure would calculate the percentage of home health patients who receive the Shingles vaccine, and collect the number of patients who did not receive the vaccine.

Numerator: Equals the total number of Medicare beneficiaries aged 60 years and over who report having ever received herpes zoster vaccine (shingles vaccine) during the home health episode of care.

Denominator: Equals the total number of Medicare beneficiaries aged 60 years and over receiving services from the HHA.

The Food and Drug Administration (FDA) has approved the use of herpes zoster vaccine in adults age 50 and older. In addition, the Advisory Committee on Immunization Practices (ACIP) currently recommends that herpes zoster vaccine be routinely administered to adults, age 60 years and older.[51] In 2013, 24.2 percent of adults 60 years and older reported receiving herpes zoster vaccine to prevent shingles, an increase from the 20.1 percent in 2012,[52] yet below the targets

[48] Flu season is generally October 1 (or when the vaccine became available) through March 31 of the following year. See URL *http://www.cdc.gov/flu/about/season/flu-season.htm* for detailed information.

[49] Carman W.F., Elder A.G., Wallace L.A., et al. Effects of influenza vaccination of health-care workers on mortality of elderly people in long-term care: A randomized controlled trial. Lancet 2000; 355:93–97.

[50] For detailed information on Shingles incidences and known complications associated with this condition see CDC information available at *http://www.cdc.gov/shingles/about/overview.html.*

[51] CDC. Morbidity and Mortality Weekly Report 2011; 60(44):1528.

[52] CDC. Morbidity and Mortality Weekly Report 2015; 64(04):95–102.

recommended in the HHS Healthy People 2020 initiative.[53]

The incidence of herpes zoster outbreak increases as people age, with a significant increase after age 50. Older people are more likely to experience the severe nerve pain known as post-herpetic neuralgia (PHN),[54] the primary acute symptom of shingles infection, as well as non-pain complications, hospitalizations,[55] and interference with activities of daily living.[56] Studies have shown for adults aged 60 years or older the vaccine's efficacy rate for the prevention of herpes zoster is 51.3 percent and 66.5 percent for the prevention of PHN for up to 4.9 years after vaccination.[57] The Short-Term Persistence Sub study (STPS) followed patients 4 to 7 years after vaccination and found a vaccine efficacy of 39.6 percent for the prevention of herpes zoster and 60.1 percent for the prevention of PHN.[58] The majority of patients reporting PHN are over age 70; vaccination of this older population would prevent most cases, followed by vaccination at age 60 and then age 50.

Studying this measure in the home health setting presents an ideal opportunity to address a population at risk which would benefit greatly from this vaccination strategy. For example, receiving the vaccine will often reduce the course and severity of the disease and reduce the risk of post herpetic neuralgia.

Information on the above numerator and denominator would be reported by HHAs through the HHVBP web-based platform, in addition to other information related to this measure as the Secretary deems appropriate. We welcome public comments on this measure's proposed adoption under the HHVBP model.

6. HHVBP Model's Four Classifications

As previously stated, the quality measures that we are proposing to use in the performance years are aligned with the six NQS domains: Patient and Caregiver-centered experience and outcomes; Clinical quality of care; Care coordination; Population Health; Efficiency and cost reduction; and, Safety (see Figure 6).

We propose to filter these NQS domains and the proposed HHVBP quality measures into four classifications to align directly with the measure weighting utilized in calculating payment adjustments. The four HHVBP classifications we are proposing are: Clinical Quality of Care, Outcome and Efficiency, Person- and Caregiver-Centered Experience, and New Measures reported by the HHAs.

These four classifications capture the multi-dimensional nature of health care provided by the HHA. These classifications are further defined as:

- Classification I—Clinical Quality of Care: Measures the quality of health care services provided by eligible professionals and paraprofessionals within the home health environment.
- Classification II—Outcome and Efficiency: Outcomes measure the end result of care provided to the beneficiary. Efficiencies measure maximizing quality and minimizing use of resources.
- Classification III—Person- and Caregiver-Centered Experience: Measures the beneficiary and their caregivers' experience of care.
- Classification IV—New Measures: Measures not currently reported by Medicare-certified HHAs to CMS, but that may fill gaps in the NQS Domains not completely covered by existing measures in the home health setting.

We seek public comment on our proposed measure classifications for the HHVBP model.

[51] CDC. Morbidity and Mortality Weekly Report 2011; 60(44):1528.

[52] CDC. Morbidity and Mortality Weekly Report 2015; 64(04):95–102.

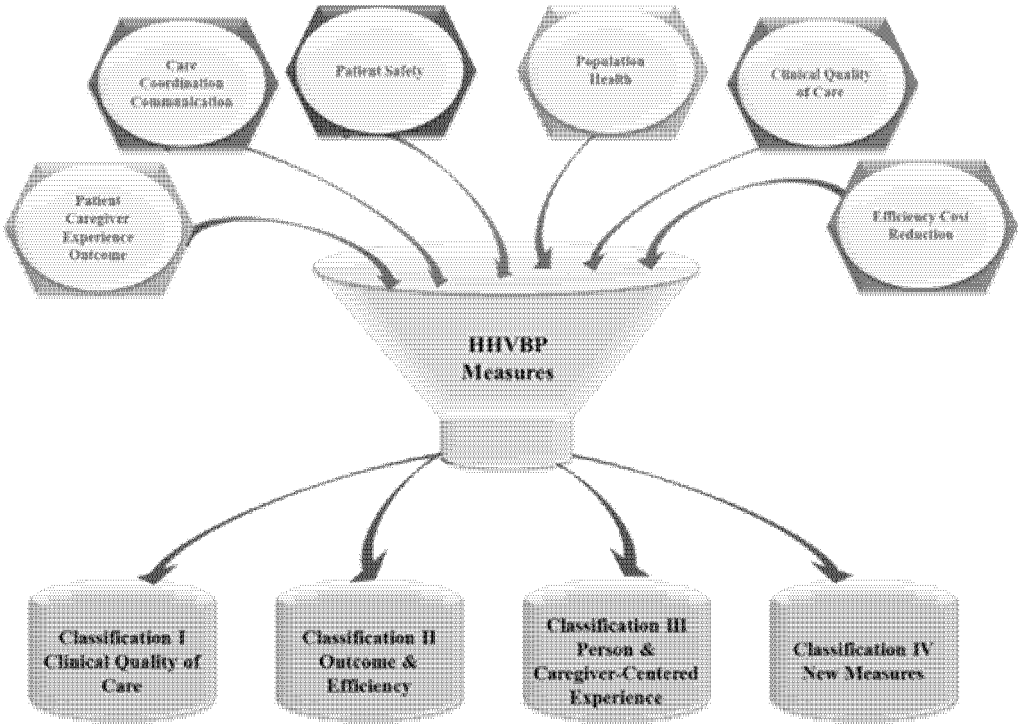
[53] Healthy People 2020: Objectives and targets for immunization and infectious diseases. Available at *https://www.healthypeople.gov/2020/topics-objectives/topic/immunization-and-infectious-diseases/objectives.*

[54] Yawn B.P., Saddier P., Wollen P.C., St Sauvier J.L., Kurland M.J., Sy L.S. A population-based study of the incidence and complication rate of herpes zoster before zoster vaccine introduction. Mayo Clinic Proc 2007; 82:1341–9.

[55] Lin F., Hadler J.L. Epidemiology of primary varicella and herpes zoster hospitalizations: The pre-varicella vaccine era. J Infect Dis 2000; 181:1897–905.

[56] Schmader K.E., Johnson G.R., Saddier P., et al. Effect of a zoster vaccine on herpes zoster-related interference with functional status and health-related quality-of-life measures in older adults. J Am Geriatr Soc 2010; 58:1634–41.

Figure 6: Six NQS Measure Domains and Classifications



7. Weighting

We propose that measures within each classification will be weighted the same for the purposes of payment adjustment. We are weighting at the individual measure level and not the classification level. Classifications are for organizational purposes only. We selected this approach since we did not want any one measure within a classification to be more important than another measure. This approach ensures that a measure's weight will remain the same even if some of the measures within a classification group have no available data. Weighting will be re-examined in subsequent years of the model and be subject to the rulemaking process.

We welcome public comments on this proposed weighting methodology under the HHVBP model.

F. Performance Scoring Methodology

1. Performance Calculation Parameters

The methodology we are proposing for assessing each HHA's total annual performance is based on a score calculated using the proposed starter set of quality measures that apply to the HHA (based on a minimum number of cases, as discussed herein). The methodology we propose would provide an assessment on a quarterly basis for each HHA and would result in an annual distribution of value-based payment adjustments among HHAs so that HHAs achieving the highest performance scores would receive the largest upward payment adjustment. The methodology we are proposing includes three primary features:

- The HHA's Total Performance Score (TPS) would be determined using the higher of an HHA's achievement or improvement score for each measure;
- All measures in the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications will have equal weight and will account for 90 percent of the TPS (see section 2 below) regardless of the number of measures in the three classifications. Points for New Measures are awarded for submission of data on the New Measures via the HHVBP web-based platform, and withheld if data is not submitted. Data reporting for each New Measure will have equal weight and will account for 10 percent of the TPS for the first performance year; and,
- The HHA performance score would reflect all of the measures that apply to the HHA based on a minimum number of cases defined below.

2. Considerations for Calculating the Total Performance Score

In § 484.320 we propose to calculate the TPS by adding together points awarded to Medicare-certified HHAs on the starter set of measures, including the New Measures. We considered several factors when developing the proposed performance scoring methodology for the HHVBP model. First, we believe it is important that the performance scoring methodology be straightforward and transparent to HHAs, patients, and other stakeholders. HHAs must be able to clearly understand performance scoring methods and performance expectations to maximize quality improvement efforts. The public must understand performance score methods to utilize publicly-reported information when choosing HHAs.

Second, we believe the proposed performance scoring methodology for the HHVBP model should be aligned appropriately with the quality measurements adopted for other Medicare value-based purchasing programs including those introduced in the hospital and skilled nursing home settings. This alignment would facilitate the public's understanding of quality measurement information disseminated in these programs and foster more informed consumer decision-making about their health care choices.

Third, we believe that differences in performance scores must reflect true differences in quality performance. To ensure that this point is addressed in the proposed performance scoring methodology for the HHVBP model, we assessed quantitative characteristics of the measures, including the current

state of measure development, number of measures, and the number and grouping of measure classifications.

Fourth, we believe that both quality achievement and improvement must be measured appropriately in the performance scoring methodology for the HHVBP model. The proposed methodology specifies that performance scores under the HHVBP model are calculated utilizing the higher of achievement or improvement scores for each measure. The impact of performance scores utilizing achievement and improvement on HHAs' behavior and the resulting payment implications was also considered. Using the higher of achievement or improvement scores allows the model to recognize HHAs that have made great improvements, though their measured performance score may still be relatively lower in comparison to other HHAs.

Fifth, through careful measure selection we intend to eliminate, or at least control for, unintended consequences such as undermining better outcomes to patients or rewarding inappropriate care. As discussed above, when available, NQF endorsed measures would be used. In addition we propose to adopt measures that we believe are closely associated with better outcomes in the HHA setting in order to incentivize genuine improvements and sustain positive achievement while retaining the integrity of the model.

Sixth, we intend to ensure the model utilizes the most currently available data to assess HHA performance. We recognize that these data would not be available instantaneously due to the time required to process quality measurement information accurately; however, we intend to make every effort to process data in the timeliest fashion. Using more current data would result in a more accurate performance score while recognizing that HHAs need time to report measure data.

3. Additional Considerations for the Proposed HHVBP Total Performance Scores

Many of the key elements of the proposed HHVBP model performance scoring methodology would be aligned with the scoring methodology of the Hospital Value-Based Purchasing Program (HVBP) in order to leverage the rigorous analysis and review underpinning that Program's approach to value-based purchasing in the hospital sector. The HVBP Program includes as one of its core elements the scoring methodology included in the 2007 Report to Congress ''Plan to Implement a Medicare Hospital Value-Based Purchasing Program'' (hereinafter referred to as ''The 2007 HVBP Report'').[59] The 2007 HVBP Report describes a Performance Assessment Model with core elements that can easily be replicated for other value-based purchasing programs or models, including the HHVBP.

In the HVBP Program, the Performance Assessment Model aggregates points on the individual quality measures across different quality measurement domains to calculate a hospital's TPS. Similarly, the proposed HHVBP model would aggregate points on individual measures across four measure classifications derived from the 6 CMS/NQS domains as described above (see Figure 3) to calculate the HHA's TPS. In addition, the proposed HHVBP payment methodology is also aligned with the HVBP Program with respect to evaluating an HHA's performance on each quality measure based on the higher of an achievement or improvement score in the performance period. The proposed model is not only designed to provide incentives for HHAs to provide the highest level of quality, but also to provide incentives for HHAs to improve the care they provide to Medicare beneficiaries. By rewarding HHAs that provide high quality and/or high improvement, we believe the proposed HHVBP model would ensure that all HHAs would be incentivized to commit the resources necessary to make the organizational changes that would result in better quality.

Under the proposed model an HHA would be awarded points only for ''applicable measures.'' An ''applicable measure'' is one for which the HHA has provided 20 home health episodes of care per year. Points awarded for each applicable measure would be aggregated to generate a TPS. As described in the benchmark section below, HHAs would have the opportunity to receive 0 to 10 points for each measure in the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications. Each measure would have equal weight regardless of the total number of measures in each of the first three classifications. In contrast, we propose to score the New Measures in a different way. For each New Measure, HHAs would receive 10 points if they report the New Measure or 0 points if they do not report the measure during the performance year. In total, the New Measures would account for 10 percent of the TPS regardless of the number of measures applied to an HHA in the other three classifications.

We propose to calculate the TPS for the HHVBP methodology similarly to the TPS calculation that has been finalized under the HVBP program. The performance scoring methodology for the HHVBP model would include determining performance standards (benchmarks and thresholds) using the 2015 baseline period performance year's quality measure data, scoring HHAs based on their achievement and/or improvement with respect to those performance standards, and weighting each of the classifications by the number of measures employed, as presented in further detail in Section G below.

4. Setting Performance Benchmarks and Thresholds

For scoring HHAs' performance on measures in the proposed Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications, we propose that the HHVBP model would adopt an approach using several key elements from the scoring methodology set forth in the 2007 HVBP Report and the successfully implemented HVBP Program [60] including allocating points based on achievement or improvement, and calculating those points based on industry benchmarks and thresholds.

In determining the achievement points for each measure, HHAs would receive points along an achievement range, which is a scale between the achievement threshold and a benchmark. We propose to calculate the achievement threshold as the median of all HHAs' performance on the specified quality measure during the baseline period and to calculate the benchmark as the mean of the top decile of all HHAs' performance on the specified quality measure during the baseline period. Unlike the HVBP Program that uses a national sample, this model would calculate both the achievement threshold and the benchmark separately for each selected state and for HHA cohort size. Under this proposed methodology, we would have benchmarks and achievement

[57] Schmader K.E., Johnson G.R., Saddier P., et al. Effect of a zoster vaccine on herpes zoster0-related interference with functional status and health-related quality-of-life measures in older adults. J Am Geriatr Soc 2010; 58:1634–41.

[58] Schmader K.E., Oxman M.N., Levin M.J., Johnson G., Zhang J.H., Betts R., Morrison V.A., Gelb L., Guatelli J.C., Harbecke R., Pachucki C., Keay S., Menzies B., Griffin M.R., Kauffman C., Marques A., Toney J., Keller P.M., LI,X, Chan L.S.F., Annumziato P. Persistence of the Efficacy of Zoster Vaccine in the Shingles Prevention Study and the Short Term Persistence Substudy. Clinical Infectious Disease 2012; 55:1320–8.

thresholds for both the larger-volume cohort and for the smaller-volume cohort of HHAs (defined in each state based on a baseline period and proposed to run from January 1, 2015 through December 31, 2015). Another way HHVBP differs from the Hospital VBP is this model only uses 2015 as the baseline year for the measures included in the proposed starter set. For the starter set used in the model, 2015 will consistently be used as the baseline period in order to evaluate the degree of change that may occur over the multiple years of the model. In determining improvement points for each measure, we propose that HHAs would receive points along an improvement range, which is a scale indicating change between an HHA's performance during the performance period and the baseline period. In addition, as in the achievement calculation, the benchmark and threshold would be calculated separately for each state and for HHA cohort size to ensure that HHAs would only be competing with those HHAs in their state and their size cohort. Grouping HHAs by state and size is another way that the HHVBP payment methodology differs from the HVBP.

5. Calculating Achievement and Improvement Points

a. Achievement Scoring

We are proposing that achievement scoring under the HHVBP model would be based on the Performance Assessment Model set forth in the 2007 HVBP Report and as implemented under the HVBP Program. An HHA would earn 0–10 points for achievement for each measure in the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications based on where its performance during the performance period falls relative to the achievement threshold and the benchmark, according to the following formula:

$$9 \times \left(\frac{\text{HHA Performance Score - Achievement Threshold}}{\text{Benchmark - Achievement Threshold}} \right) + 0.5$$

All achievement points would be rounded up or down to the nearest point (for example, an achievement score of 4.555 would be rounded to 5). HHAs would receive an achievement score as follows:

- An HHA with performance equal to or higher than the benchmark would receive the maximum of 10 points for achievement.
- An HHA with performance equal to or greater than the achievement threshold (but below the benchmark) would receive 1–9 points for achievement, by applying the formula above.
- An HHA with performance less than the achievement threshold would receive 0 points for achievement.

We welcome public comment on this proposed methodology for scoring HHAs on achievement under the proposed HHVBP model.

b. Improvement Scoring

In keeping with the approach used by the HVBP program, we propose that an HHA would earn 0–10 points based on how much its performance during the performance period improved from its performance on each measure in the proposed Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications during the baseline period. A unique improvement range for each measure would be established for each HHA that defines the difference between the HHA's baseline period score and the same state and size level benchmark for the measure used in the achievement scoring calculation described previously, according to the following formula:

$$10 \times \left(\frac{\text{HHA Performance Period Score - HHA Baseline Period Score}}{\text{Benchmark - HHA Baseline Period Score}} \right) - 0.5$$

All improvement points would be rounded to the nearest point. If an HHA's performance on the measure during the performance period was:

- Equal to or higher than the benchmark score, the HHA would receive an improvement score of 10 points;
- Greater than its baseline period score but below the benchmark (within the improvement range), the HHA would receive an improvement score of 0–10, based on the formula above; or
- Equal to or lower than its baseline period score on the measure, the HHA would receive 0 points for improvement.

We welcome public comments on this proposed methodology for scoring HHAs on improvement under the proposed HHVBP model.

c. Examples of Calculating Achievement and Improvement Scores

For illustrative purposes we present the following examples of how the proposed performance scoring methodology would be applied in the context of the proposed measures in the proposed Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications. These HHA examples were selected from an empirical database created from 2013/2014 data from the Home Health Compare archived data, claims data and enrollment data to support the development of the HHVBP permutation of the Performance Assessment Model, and all performance scores are calculated for the pneumonia measure, with respect to the number of individuals assessed and administered the pneumococcal vaccine.

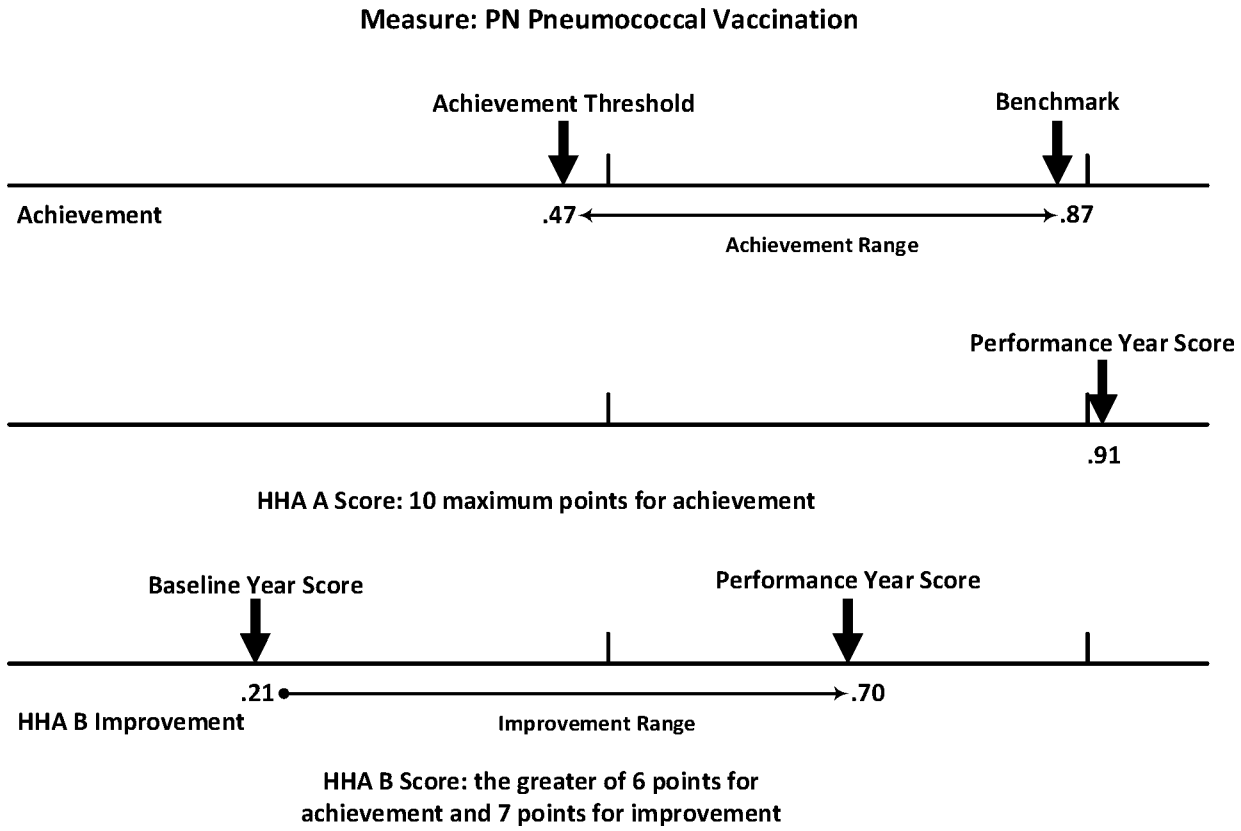
Figure 7 shows the scoring for HHA 'A', as an example. The benchmark calculated for the pneumonia measure in this case was 0.87 (the mean value of the top decile in 2013), and the achievement threshold was 0.47 (the performance of the median or the 50th percentile among HHAs in 2013). HHA A's 2014 performance rate of 0.91 during the performance period for this measure exceeds the benchmark, so HHA A would earn 10 (the maximum)

points for its achievement score. The HHA's performance rate on a measure is expressed as a decimal. In the illustration, HHA A's performance rate of 0.91 means that 91 percent of the applicable patients that were assessed were given the pneumococcal vaccine. In this case, HHA A has earned the maximum number of 10 possible achievement points for this measure and thus, its improvement score is irrelevant in the calculation.

Figure 7 also shows the scoring for HHA 'B'. As referenced below, HHA B's performance on this measure went from 0.21 (which was below the achievement threshold) in the baseline period to 0.70 (which is above the achievement threshold) in the performance period. Applying the achievement scale, HHA B would earn 6 points for achievement, calculated as follows: [9 * ((0.70 − 0.47)/(0.87 − 0.47))] + 0.5 = 5.675, and then rounded to 6 points.

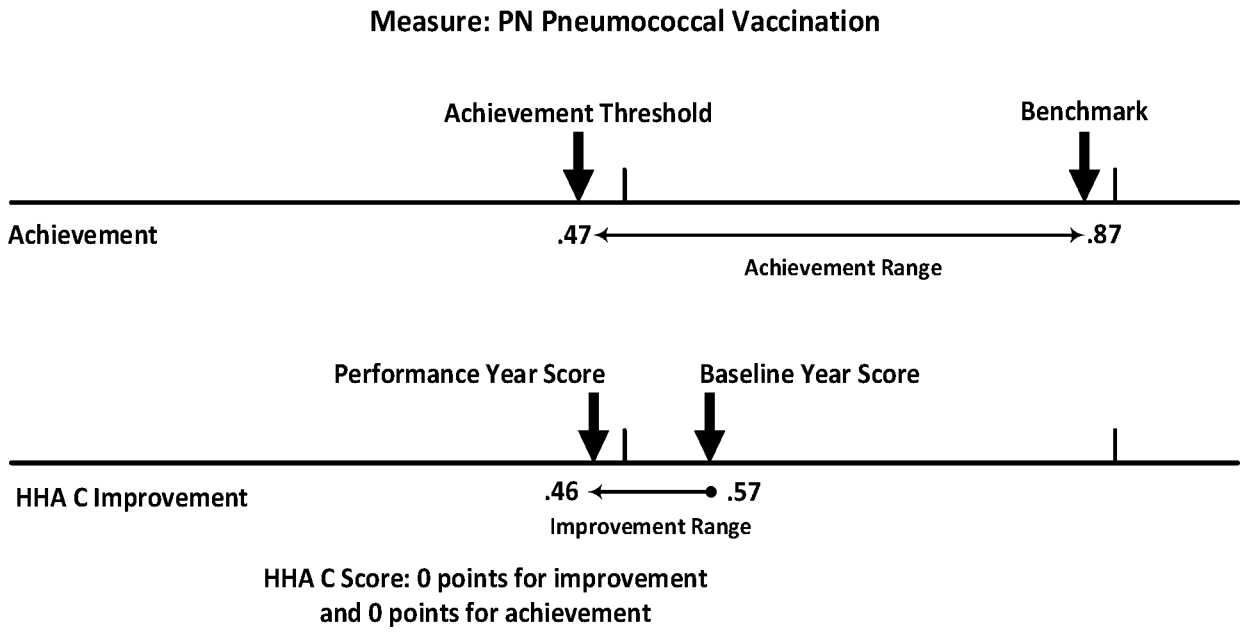
Checking HHA B's improvement score yields the following result: Based on HHA B's period-to-period improvement, from 0.21 in the baseline year to 0.70 in the performance year, HHA B would earn 7 points, calculated as follows: [10 * ((0.70 − 0.21)/(0.87 − 0.21))] − 0.5 = 6.92, rounded to 7 points. Because the higher of the achievement and improvement scores is used, HHA B would receive 7 points for this measure.

Figure 7: Example of an HHA Earning Points by Achievement or Improvement Scoring



In Figure 8, HHA 'C' yielded a decline in performance on the pneumonia measure, falling from 0.57 to 0.46 (a decline of 0.11 points). HHA C's performance during the performance period is lower than the achievement threshold of 0.47 and, as a result, receives 0 points based on achievement. It also receives 0 points for improvement, because its performance during the performance period is lower than its performance during the baseline period.

Figure 8: Example of an HHA Not Earning Points by Achievement or Improvement Scoring



6. Proposed Scoring Methodology for New Measures

The HHVBP model provides us with the opportunity to study new quality measures. The four New Measures that we have proposed to adopt for the model for PY1 would be reported directly by the HHA and would account for 10 percent of the TPS regardless of the number of measures in the other three classifications. We are proposing that HHAs that report on these measures would receive 10 points out of a maximum of 10 points for each of the 4 measures in the New Measure classification. Hence a HHA that reports on all four measures would receive 40 points out of a maximum of 40. An HHA would receive 0 points for each measure that it fails to report on. If an HHA reports on all four measures, it would receive 40 points for the classification and 10 points (40/40 * 10 points) would be added to its TPS because the New Measure classification has a maximum weight of 10 percent. If an HHA reports on 3 of 4 measures, it would receive 30 points of 40 points available for the classification and 7.5 points (30/40 * 10 points) added to its TPS. If an HHA reports on 2 of 4 measures, they would receive 20 points of 40 points available for the classification and 5.0 points (20/40 * 10 points) added to their TPS. If an HHA reports on 0 of 4 measures, they would receive 0 points and have no points added to their TPS. We intend to update these measures through future rulemaking to allow us to study newer, leading-edge measures as well as retire measures that no longer require such analysis. We request comment on this proposed scoring methodology for new measures.

7. Minimum Number of Cases for Outcome and Clinical Quality Measures

While no HHA in a selected state would be exempt from the HHVBP model, there may be periods when an HHA does not receive a payment adjustment because there are not an adequate number of episodes of care to generate sufficient quality measure data. The minimum threshold for an HHA to receive a score on a given measure is 20 home health episodes of care per year for HHAs that have been certified for at least 6-months. If an HHA does not meet this threshold to generate scores on five or more of the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience measures, no payment adjustment will be made, and the Medicare-certified HHA would be paid for HHA services in an amount equivalent to the amount it would have been paid under section 1895 of the Act.[61]

HHAs with very low volumes will either increase their volume in later performance years and be subject to future payment adjustment, or the HHAs' volume will remain very low and the HHAs would continue to not have their payment adjusted in future years. Based on the most recent data available at this time, a very small number of HHAs are reporting on less than five of the total number of measures included in the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications and account for less than 0.5 percent of the claims made over 1,900 HHAs delivering care within the nine proposed selected states. We expect very little impact of very low service volume HHAs on the model due to the low number of low volume HHAs and because it is unlikely that a HHA will reduce the amount of service to such a low level to avoid a payment adjustment. Although these HHAs would not be subject to payment adjustments, they would remain in the model and have access to the same technical assistance as all other HHAs in the model, and would receive quality reports on any measures for which they do have 20 episodes of care, and a future opportunity to compete for payment adjustments.

We propose the HHA's TPS would be based on all the Clinical Quality of Care, Outcome and Efficiency, Person and Caregiver-Centered Experience measures and the New Measures that apply to the HHA. As described above, each measure in the Clinical Quality of Care, Outcome and Efficiency and Person and Caregiver-Centered

[61] HHVBP would follow the Home Health Compare Web site policy not to report measures on HHAs that have less than 20 observations for statistical reasons concerning the power to detect reliable differences in the quality of care.

Experience classifications would be weighted equally. Each measure would have an equal weight relative to the total score of the three classifications regardless of the number of measures that are applicable.

As an example, HHA ''A'' has at least 20 episodes of care in a 12-month period for only 9 quality measures out of a possible 25 measures from three of the four classifications (except the New Measures). Under the proposed scoring methodology outlined above, HHA A would be awarded 0, 0, 3, 4, 5, 7, 7, 9, and 10 points, respectively, for these measures. HHA A's total earned points for the three classifications would be calculated by adding together all the points awarded to HHA A, resulting in a total of 45 points. HHA A's total possible points would be calculated by multiplying the total number of measures for which the HHA reported on least 20 episodes (nine) by the maximum number of points for those measures (10), yielding a total of 90 possible points. HHA A's score for the three classifications would be the total earned points (45) divided by the total possible points (90) multiplied by 90 because as mentioned in section E7, the Clinical Quality of Care, Outcome and Efficiency, and Person and Caregiver-Centered Experience classifications account for 90 percent of the TPS and the New Measures classification accounts for 10 percent of the TPS, which yields a result of 45. In this example, HHAs also reported all four numbers and would receive the full 10 points for the new measure. As a result, the TPS for HHA A would be 55 (45 plus 10). In addition, as specified in Section E:7—Weighting, all measures have equal weights regardless of their classification (except for New Measures) and the total earned points for the three classifications can be calculated by adding the points awarded for each such measure together. We seek public comment on our proposal of the minimum number of cases for outcome and clinical quality measures.

G. The Payment Adjustment Methodology

We propose to codify at 42 CFR 484.330 a methodology for applying value-based payment adjustments to home health services under the HHVBP model. Payment adjustments would be made to the HH PPS final claim payment amount as calculated in accordance with § 484.205 using a linear exchange function (LEF) similar to the methodology utilized by the HVBP Program. The LEF is used to translate an HHA's TPS into a percentage of the value-based payment adjustment earned by each HHA under the HHVBP model. The LEF was identified by the HVBP Program as the simplest and most straightforward option to provide the same marginal incentives to all hospitals, and we believe the same to be true for HHAs. We propose the function's intercept at zero percent, meaning those HHAs that have a TPS that is average in relationship to other HHAs in their cohort (a zero percent), would not receive any payment adjustment. Payment adjustments for each HHA with a score above zero percent would be determined by the slope of the LEF. In addition we propose to set the slope of the LEF for the first performance year, CY 2016, so that the estimated aggregate value-based payment adjustments for CY 2016 are equal to 5 percent of the estimated aggregate base operating episode payment amount for CY 2018. The estimated aggregate base operating episode payment amount is the total amount of episode payments made to all the HHAs by Medicare in each individual state in the larger- and smaller-volume cohorts respectively (we are proposing nine states, which would create 18 separate aggregate base operating episode payment amounts).

Figure 9 provides an example of how the LEF is calculated and how it is applied to calculate the percentage payment adjustment to a HHA's TPS. For this example, we applied the 8 percent payment adjustment level that is proposed for the final two years of the HHVBP model. The proposed rate for the payment adjustments for other years would be proportionally less.

Step #1 involves the calculation of the 'Prior Year Aggregate HHA Payment Amount' (See C2 in Figure 9) that each HHA was paid in the prior year. From claims data, all payments are summed together for each HHA for CY 2015, the year prior to the HHVBP Model.

Step #2 involves the calculation of the '8 percent Payment Reduction Amount' (C3 of Figure 9) for each HHA. The 'Prior Year Aggregate HHA Payment Amount' is multiplied by the '8 percent Payment Reduction Rate'. The aggregate of the '8-percent Payment Reduction Amount' is the numerator of the LEF.

Step #3 involves the calculation of the 'Final TPS Adjusted Reduction Amount' (C4 of Figure 9) by multiplying the '8-percent Payment Reduction Amount' from Step #2 by the TPS (C1) divided by 100. The aggregate of the 'TPS Adjusted Reduction Amount' is the denominator of the LEF.

Step #4 involves calculating the LEF (C5 of Figure 9) by dividing the aggregate '8 percent Payment Reduction Amount' by the aggregate 'TPS Adjusted Reduction Amount'.

Step #5 involves the calculation of the 'Final TPS Adjusted Payment Amount' (C6 of Figure 9) by multiplying the 'TPS Adjusted Reduction Amount' (C4) by the LEF (C5). This is an intermediary value used to calculate 'Quality Adjusted Payment Rate'.

Step #6 involves the calculation of the 'Quality Adjusted Payment Rate' (C7 of Figure 9) that the HHA would receive instead of the 8 percent reduction in payment. This is an intermediary step to determining the payment adjustment rate. For CYs 2021 and 2022, the payment adjustment in this column would range from 0 percent to 16 percent depending on the quality of care provided.

Step #7 involves the calculation of the 'Final Percent Payment Adjustment' (C8 of Figure 9) that would be applied to the HHA payments after the performance period. It simply involves the CY payment adjustment percent (in 2018, 5 percent; in 2019, 5 percent; in 2020, 6 percent; in 2021, 8 percent; and in 2022, 8 percent). In this example, we use the maximum eight-percent (8 percent) subtraction to the 'Quality Adjusted Payment Rate'. Note that the payment adjustment percentage is capped at no more than plus or minus 8 percent for each respective performance period and the payment adjustment would occur on the final claim payment amount.

We invite public comments on this proposed payment adjustment methodology.

FIGURE 9—8-PERCENT REDUCTION SAMPLE

HHA	TPS	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
		Prior year aggregate HHA payment *	8-Percent payment reduction amount (C2*8%)	TPS adjusted reduction amount (C1/100)*C3	Linear exchange function (LEF) (Sum of C3/ Sum of C4)	Final TPS adjusted payment amount (C4*C5)	Quality adjusted payment rate (C6/C2) *100 %	Final percent payment adjustment +/− (C7–8%) %
	(C1)	(C2)	(C3)	(C4)	(C5)	(C6)	(C7)	(C8)
HHA1	38	$ 100,000	$ 8,000	$ 3,040	1.93	$ 5,867	5.9	−2.1
HHA2	55	145,000	11,600	6,380	1.93	12,313	8.5	0.5
HHA3	22	800,000	64,000	14,080	1.93	27,174	3.4	−4.6
HHA4	85	653,222	52,258	44,419	1.93	85,729	13.1	5.1
HHA5	50	190,000	15,200	7,600	1.93	14,668	7.7	−0.3
HHA6	63	340,000	27,200	17,136	1.93	33,072	9.7	1.7
HHA7	74	660,000	52,800	39,072	1.93	75,409	11.4	3.4
HHA8	25	564,000	45,120	11,280	1.93	21,770	3.9	−4.1
Sum			276,178	143,007		276,002		

* Example cases.

H. Preview and Period To Request Recalculation

We are proposing to provide HHAs two separate opportunities to review scoring information under the HHVBP model. First, HHAs will have the opportunity to review their quarterly quality reports following each quarterly posting; second, Medicare-certified HHAs will have the opportunity to review their TPS and payment adjustment calculations, and request a recalculation if a discrepancy is identified due to a CMS error as described in this section. These processes would also help educate and inform each competing Medicare-certified HHA on the direct relation between the payment adjustment and performance measure scores.

The proposed model design calls for us to inform HHA quarterly of their performance on each of the individual quality measures used to calculate the TPS. We propose that HHAs will have 10 days after the quarterly reports are provided to request a recalculation of a measure scores if it believes there is evidence of a discrepancy. We would adjust the score if it is determined that the discrepancy in the calculated measure scores was the result of our failure to follow measurement calculation protocols.

In addition, the proposed model design also calls for us to inform each Medicare-certified HHA of the TPS and payment adjustment amount in an annual report. We propose that these annual reports be provided to Medicare-certified HHAs each August prior to the calendar year for which the payment adjustment would be applied. Similar to quarterly reports, HHAs will have 10 days to request a recalculation of their TPS and payment adjustment amount from the date information is made available. For both the quarterly reports and the annual report containing the TPS and payment adjustments, Medicare-certified HHAs will only be permitted to request scoring recalculations, and must include a specific basis for the requested recalculation. We will not be responsible for providing HHAs with the underlying source data utilized to generate performance measure scores. Each HHA has access to this data via the QIES system. The final TPS and payment adjustment would then be provided to competing Medicare-certified HHAs in a final report no later than 60 days in advance of the payment adjustment taking effect.

The TPS from the annual performance report would be calculated based on the calculation of performance measures contained in the quarterly reports that have already been provided and reviewed by the HHAs. As a result, we believe that quarterly reviews would provide substantial opportunity to identify and correct errors and resolve discrepancies, thereby minimizing the challenges to the annual performance scores linked to payment adjustment.

As described above, a quarterly performance report would be provided to all Medicare-certified HHAs within the selected states beginning with the first quarter of CY 2016 being reported in July 2016. We propose that HHAs would submit recalculation requests for both quarterly quality performance measure reports and for the TPS and payment adjustment reports via an email link provided on the model-specific Web page. The request form would be entered by a person who has authority to sign on behalf of the HHA and be submitted within 10 days of receiving the quarterly data report or the annual TPS and payment adjustment report.

Requests for both quarterly report measure score recalculations or TPS and payment adjustment recalculations would contain the following information:

- The provider's name, address associated with the services delivered, and CMS Certification Number (CCN);
- The basis for requesting recalculation to include the specific quality measure data that the HHA believes is inaccurate or the calculation the HHA believes is incorrect;
- Contact information for a person at the HHA with whom CMS or its agent can communicate about this request, including name, email address, telephone number, and mailing address (must include physical address, not just a post office box); and,
- A copy of any supporting documentation the HHA wishes to submit in electronic form via the model-specific Web page.

Following receipt of a request for quarterly report measure score recalculations or a request for TPS and payment adjustment recalculation, CMS or its agent would:

+ Provide an email acknowledgement, using the contact information provided in the recalculation request, to the HHA contact notifying the HHA that the request has been received;

+ Review the request to determine validity, and determine whether the requested recalculation would result in a score change altering performance measure scores or the HHA's TPS;

+ If recalculation would result in a performance measure score or TPS change, conduct a review of quality data and if an error is found, recalculate the TPS using the corrected performance data; and,

+ Provide a formal response to the HHA contact, using the contact information provided in the recalculation request, notifying the HHA of the outcome of the review and recalculation process.

Recalculation and subsequent communication of the results of these determinations would occur as soon as administratively feasible following the submission of requests. We request comment on our proposed quarterly quality report measure review, TPS preview period, and our proposed process for requesting recalculation of the quarterly performance measure scores, and the TPS and payment adjustment. We intend to codify these processes in regulation text in future rulemaking.

Additionally, we will develop and adopt an appeals mechanism under the model through future rulemaking in advance of the application of any payment adjustments.

I. Evaluation

We propose to codify at 484.315(c) that HHAs in selected states would be required to collect and report information to CMS necessary for the purposes of monitoring and evaluating this model as required by statute.[62] We plan to conduct an evaluation of the proposed HHVBP model in accordance with section 1115A(b)(4) of the Act, which requires the Secretary to evaluate each model tested by CMMI. We consider an independent evaluation of the model to be necessary to understand its impacts on care quality in the home health setting. The evaluation would be focused primarily on understanding how successful the model is in achieving quality improvement as evidenced by HHAs' performance on clinical care process measures, clinical outcome measures (for example, functional status), utilization/outcome measures (for example, hospital readmission rates, emergency room visits), access to care, and patient's experience of care, and Medicare costs. We also intend to examine the likelihood of unintended consequences. We intend to select an independent evaluation contractor to perform this evaluation. However, because the procurement for the selection of the evaluation contractor is in progress and is subject to the finalization of the proposed model, we cannot provide a detailed description of the evaluation methodology here.

We intend to use a multilevel approach to evaluation. Here, we intend to conduct analyses at the state, HHA, and patient levels. Based on the state groupings discussed in the section on selection of Medicare certified HHAs, we believe there are several ways in which we can draw comparison groups and remain open to scientifically-sound, rigorous methods for evaluating the effect of the model intervention.

The evaluation effort may require of HHAs participating in the Model additional data specifically for evaluation purposes. Such requirements for additional data to carry out model evaluation would be in compliance with 42 CFR 403.1105 which, as of January 1, 2015, requires entities participating in the testing of a model under section 1115A to collect and report such information, including protected health information (as defined at 45 CFR 160.103), as the Secretary determines is necessary to monitor and evaluate the model. We would consider all Medicare-certified HHAs providing services within a state selected for the Model to be participating in the testing of this model because the competing HHAs would be receiving payment from CMS under the model.[63]

We invite public comments on this proposed evaluation plan.

V. Proposed Provisions of the Home Health Care Quality Reporting Program (HH QRP)

A. Background and Statutory Authority

Section 1895(b)(3)(B)(v)(II) of the Act requires that for 2007 and subsequent years, each HHA submit to the Secretary in a form and manner, and at a time, specified by the Secretary, such data that the Secretary determines are appropriate for the measurement of health care quality. To the extent that an HHA does not submit data in accordance with this clause, the Secretary is directed to reduce the home health market basket percentage increase applicable to the HHA for such year by 2 percentage points. As provided at section 1895(b)(3)(B)(vi) of the Act, depending on the market basket percentage for a particular year, the 2 percentage point reduction under section 1895(b)(3)(B)(v)(I) of the Act may result in this percentage increase, after application of the productivity adjustment under section 1895(b)(3)(B)(vi)(I) of the Act, being less than 0.0 percent for a year, and may result in payment rates under the Home Health PPS for a year being less than payment rates for the preceding year.

Section 2(a) of the Improving Medicare Post-Acute Care Transformation Act of 2014 (the IMPACT Act) (Pub. L. 113–185, enacted on Oct. 6, 2014) amended Title XVIII of the Act, in part, by adding a new section 1899B, which imposes new data reporting requirements for certain post-acute care (PAC) providers, including HHAs. New section 1899B of the Act is titled, ''Standardized Post-Acute Care (PAC) Assessment Data for Quality, Payment, and Discharge Planning''. Under section 1899B(a)(1) of the Act, certain post-acute care (PAC) providers (defined in section 1899B(a)(2)(A) of the Act to include HHAs, SNFs, IRFs, and LTCHs) must submit standardized patient assessment data in accordance with section 1899B(b) of the Act, data on quality measures required under section 1899B(c)(1) of the Act, and data on resource use, and other measures required under section 1899B(d)(1) of the Act. The Act also sets out specified application dates for each of the measures. The Secretary must specify the quality, resource use, and other measures no later than the applicable specified application date defined in section 1899B(a)(2)(E) of the Act.

Section 1899B(b) of the Act describes the standardized patient assessment data that PAC providers are required to submit in accordance with section 1899B(b)(1) of the Act; requires the Secretary, to the extent practicable, to match claims data with standardized patient assessment data in accordance with section 1899B(b)(2) of the Act; and requires the Secretary, as soon as practicable, to revise or replace existing patient assessment data to the extent that such data duplicate or overlap with standardized patient assessment data, in accordance with section 1899B(b)(3) of the Act.

Sections 1899B(c)(1) and (d)(1) of the Act direct the Secretary to specify measures that relate to at least five stated quality domains and three stated resource use and other measure domains. Section 1899B(c)(1) of the Act provides that the quality measures on which PAC providers, including HHAs, are required to submit standardized patient assessment data and other necessary data specified by the Secretary must be in accordance with, at least, the following domains:

- Functional status, cognitive function, and changes in function and cognitive function;
- Skin integrity and changes in skin integrity;
- Medication reconciliation;

[62] See 1115A(b)(4) of the Act (42 U.S.C. 1315a).

[63] 79 FR 67751 through 67755.

- Incidence of major falls; and
- Accurately communicating the existence of and providing for the transfer of health information and care preferences of an individual to the individual, family caregiver of the individual, and providers of services furnishing items and services to the individual when the individual transitions (1) from a hospital or Critical Access Hospital (CAH) to another applicable setting, including a PAC provider or the home of the individual, or (2) from a PAC provider to another applicable setting, including a different PAC provider, hospital, CAH, or the home of the individual.

Section 1899B(c)(2)(A) provides that, to the extent possible, the Secretary must require such reporting through the use of a PAC assessment instrument and modify the instrument as necessary to enable such use.

Section 1899B(d)(1) of the Act provides that the resource use and other measures on which PAC providers, including HHAs, are required to submit any necessary data specified by the Secretary, which may include standardized assessment data in addition to claims data, must be in accordance with, at least, the following domains:

- Resource use measures, including total estimated Medicare spending per beneficiary;
- Discharge to community; and
- Measures to reflect all-condition risk-adjusted potentially preventable hospital readmission rates.

Sections 1899B(c) and (d) of the Act indicate that data satisfying the eight measure domains in the IMPACT Act is the minimum data reporting requirement. Therefore, the Secretary may specify additional measures and additional domains.

Section 1899B(e)(1) of the Act requires that the Secretary implement the quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) of the Act in phases consisting of measure specification, data collection, and data analysis; the provision of feedback reports to PAC providers in accordance with section 1899B(f) of the Act; and public reporting of PAC providers' performance on such measures in accordance with section 1899B(g) of the Act. Section 1899B(e)(2) of the Act generally requires that each measure specified by the Secretary under section 1899B of the Act be NQF-endorsed, but authorizes an exception under which the Secretary may select non-NQF-endorsed quality measures in the case of specified areas or medical topics determined appropriate by the Secretary for which a feasible or practical measure has not been endorsed by the NQF, as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. Section 1899B(e)(3) of the Act provides that the pre-rulemaking process required by section 1890A of the Act applies to quality, resource use, and other measures specified under sections 1899B(c)(1) and (d)(1) of the Act, but authorizes exceptions under which the Secretary may (1) use expedited procedures, such as ad hoc reviews, as necessary in the case of a measure required with respect to data submissions during the 1-year period before the applicable specified application date, or (2) alternatively, waive section 1890A of the Act in the case of such a measure if applying section 1890A of the Act (including through the use of expedited procedures) would result in the inability of the Secretary to satisfy any deadline specified under section 1899B of the Act with respect to the measure.

Section 1899B(f)(1) of the Act requires the Secretary to provide confidential feedback reports to PAC providers on the performance of such PAC providers with respect to quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) of the Act beginning 1 year after the applicable specified application date.

Section 1899B(g) of the Act requires the Secretary to establish procedures for making available to the public information regarding the performance of individual PAC providers with respect to quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) beginning not later than 2 years after the applicable specified application date. The procedures must ensure, including through a process consistent with the process applied under section 1886(b)(3)(B)(viii)(VII) for similar purposes, that each PAC provider has the opportunity to review and submit corrections to the data and information that are to be made public with respect to the PAC provider prior to such data being made public.

Section 1899B(h) of the Act sets out requirements for removing, suspending, or adding quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) of the Act. In addition, section 1899B(j) of the Act requires the Secretary to allow for stakeholder input, such as through town halls, open door forums, and mailbox submissions, before the initial rulemaking process to implement section 1899B of the Act.

Section 2(c)(1) of the IMPACT Act amended section 1895 of the Act to address the payment consequences for HHAs with respect to the additional data which HHAs are required to submit under section 1899B of the Act. These changes include the addition of a new section 1895(3)(B)(v)(IV), which requires HHAs to submit the following additional data: (1) For the year beginning on the applicable specified application date and subsequent years, data on the quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) of the Act; and (2) for 2019 and subsequent years, the standardized patient assessment data required under section 1899B(b)(1) of the Act. Such data must be submitted in the form and manner, and at the time, specified by the Secretary.

As stated above, the IMPACT Act adds a new section 1899B that imposes new data reporting requirements for certain post-acute care (PAC) providers, including HHAs. Sections 1899B(c)(1) and 1899B(d)(1) collectively require that the Secretary specify quality measures and resource use and other measures with respect to certain domains not later than the specified application date that applies to each measure domain and PAC provider setting. Section 1899B(a)(2)(E) delineates the specified application dates for each measure domain and PAC provider. The IMPACT Act also amends other sections of the Act, including section 1895(b)(3)(B)(v), to require the Secretary to reduce the otherwise applicable PPS payment to a PAC provider that does not report the new data in a form and manner, and at a time, specified by the Secretary. For HHAs, amended section 1895(b)(3)(B)(v) would require the Secretary to reduce the payment update for any HHA that does not satisfactorily submit the new required data.

Under the current HH QRP, the general timeline and sequencing of measure implementation occurs as follows: Specification of measures; proposal and finalization of measures through notice-and-comment rulemaking; HHA submission of data on the adopted measures; analysis and processing of the submitted data; notification to HHAs regarding their quality reporting compliance with respect to a particular year; consideration of any reconsideration requests; and imposition of a payment reduction in a particular year for failure to satisfactorily submit data with respect to that year. Any payment reductions that are taken with respect to a year begin approximately 1 year after the end of the data submission period for that

year and approximately 2 years after we first adopt the measure.

To the extent that the IMPACT Act could be interpreted to shorten this timeline, so as to require us to reduce HH PPS payment for failure to satisfactorily submit data on a measure specified under section 1899B(c)(1) or (d)(1) of the IMPACT Act beginning with the same year as the specified application date for that measure, such a timeline would not be feasible. The current timeline discussed above reflects operational and other practical constraints, including the time needed to specify and adopt valid and reliable measures, collect the data, and determine whether a HHA has complied with our quality reporting requirements. It also takes into consideration our desire to give HHAs enough notice of new data reporting obligations so that they are prepared to timely start reporting data. Therefore, we intend to follow the same timing and sequence of events for measures specified under sections 1899B(c)(1) and (d)(1) of the Act that we currently follow for other measures specified under the HH QRP. We intend to specify each of these measures no later than the specified application dates set forth in section 1899B(a)(2)(E) of the Act and propose to adopt them consistent with the requirements in the Act and Administrative Procedure Act. To the extent that we finalize a proposal to adopt a measure for the HH QRP that satisfies an IMPACT Act measure domain, we intend to require HHAs to report data on the measure for the year that begins 2 years after the specified application date for that measure. Likewise, we intend to require HHAs to begin reporting any other data specifically required under the IMPACT Act for the year that begins 2 years after we adopt requirements that would govern the submission of that data.

Lastly, on April 1, 2014, the Congress passed the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93), which stated the Secretary may not adopt ICD–10 prior to October 1, 2015. On August 4, 2014, HHS published a final rule titled ''Administrative Simplification: Change to the Compliance Date for the International Classification of Diseases, 10th Revision (ICD–10–CM and ICD–10–PCS Medical Data Code Sets'' (79 FR 45128), which announced October 1, 2015 as the new compliance date. The OASIS–C1 data item set had been previously approved by the Office of Management and Budget (OMB) on February 6, 2014 and scheduled for implementation on October 1, 2014. We intended to use the OASIS–C1 to coincide with the original implementation date of the ICD–10. The approved OASIS–C1 included changes to accommodate coding of diagnoses using the ICD–10–CM coding set and other important stakeholder concerns such as updating clinical concepts, and revised item wording and response categories to improve item clarity. This version included five (5) data items that required the use of ICD–10 codes.

Since OASIS–C1 was revised to incorporate ICD–10 coding, it is not feasible to implement the OASIS–C1/ICD–10 version prior to October 1, 2015, when ICD–10 is scheduled to be implemented. Due to this delay, we had to ensure the collection and submission of OASIS data continued, until ICD–10 could be implemented. Therefore, we have made interim changes to the OASIS–C1 data item set to allow use with ICD–9 until ICD–10 is adopted. The OASIS–C1/ICD–9 version was submitted to OMB for approval until the OASIS–C1/ICD–10 version could be implemented. A 6-month emergency approval was granted on October 7, 2014 and CMS subsequently applied for an extension. The extension of the OASIS–C1/ICD–9 version was reapproved under OMB control number 0938–0760 with a current expiration date of March 31, 2018. It is important to note, that this version of the OASIS will be discontinued once the OASIS–C1/ICD–10 version is approved and implemented. In addition, to facilitate the reporting of OASIS data as it relates to the planned implementation of ICD–10 on October 1, 2015, we submitted a new request for approval to OMB for the OASIS–C1/ICD–10 version under the Paperwork Reduction Act (PRA) process. We are requesting a new OMB control number for the proposed revised OASIS item as announced in the 30-day **Federal Register** notice (*80 FR 15797*). The new information collection request is currently pending OMB approval. Information regarding the OASIS–C1 can be located at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/OASIS-C1.html.* Additional information regarding the adoption of ICD–10 can be located at *http://www.cms.gov/Medicare/Coding/ICD10/index.html?redirect=/icd10.*

B. General Considerations Used for the Selection of Quality Measures for the HH QRP

We strive to promote high quality and efficiency in the delivery of health care to the beneficiaries we serve. Performance improvement leading to the highest quality health care requires continuous evaluation to identify and address performance gaps and reduce the unintended consequences that may arise in treating a large, vulnerable, and aging population. Quality reporting programs, coupled with public reporting of quality information, are critical to the advancement of health care quality improvement efforts.

We seek to adopt measures for the HH QRP that promotes better, safer, and more efficient care. Valid, reliable, relevant quality measures are fundamental to the effectiveness of our quality reporting programs. Therefore, selection of quality measures is a priority for CMS in all of its quality reporting programs.

The measures selected would address the measure domains as specified in the IMPACT Act and would be in alignment with the *CMS Quality Strategy,* which is framed using the three broad aims of the *National Quality Strategy:*

- Better Care: Improve the overall quality of care by making healthcare more patient-centered, reliable, accessible, and safe.
- Healthy People, Healthy Communities: Improve the health of the U.S. population by supporting proven interventions to address behavioral, social, and environmental determinants of health in addition to delivering higher-quality care.
- Affordable Care: Reduce the cost of quality healthcare for individuals, families, employers, and government.

In addition, our measure selection activities for the HH QRP take into consideration input we receive from the Measure Applications Partnership (MAP), convened by the NQF, as part of the established CMS pre-rulemaking process required under section 1890A of the Act. The MAP is a public-private partnership comprised of multi-stakeholder groups convened for the primary purpose of providing input to us on the selection of certain categories of quality and efficiency measures, as required by section 1890A(a)(3) of the Social Security Act (the Act). By February 1st of each year, the NQF must provide that input to us. Input from the MAP is located at *http://www.qualityforum.org/Setting_Priorities/Partnership/Measure_Applications_Partnership.aspx.* In addition, we take into account national priorities, such as those established by the National Priorities Partnership at *http://www.qualityforum.org/npp/,* and the HHS Strategic Plan at *http://www.hhs.gov/secretary/about/priorities/priorities.html.*

We initiated an Ad Hoc MAP process for the review of the measures under consideration for implementation in

preparation of the measures for adoption into the HH QRP that we must propose through this fiscal year's rule, in order to begin implementing such measures by 2017. We included under the List of Measures under Consideration (MUC List) a list of measures that the Secretary must make available to the public, as part of the pre-rulemaking process, as described in section 1890A(a)(2) of the Act. The MAP Off-Cycle Measures under Consideration for PAC–LTC Settings can be accessed on the National Quality Forum Web site at: *http://www.qualityforum.org/map/.* The NQF MAP met in February 2015 and provided input to us as required under section 1890A(a)(3) of the Act. The MAP issued a pre-rulemaking report on March 6, 2015 entitled MAP Off-Cycle Deliberations 2015: Measures under Consideration to Implement Provisions of the IMPACT Act—Final Report, which is available for download at: *http://www.qualityforum.org/Publications/2015/03/MAP_Off-Cycle_Deliberations_2015_-_Final_Report.aspx.* The MAP's input for the proposed measure is discussed in this section.

To meet the first specified application date applicable to HHAs under section 1899B(a)(2)(E) of the Act, which is October 1, 2017, we have focused on measures that:

- Correspond to a measure domain in sections 1899B(c)(1) or (d)(1) of the Act and are setting-agnostic: For example falls with major injury and the incidence of pressure ulcers;
- Are currently adopted for 1 or more of our PAC quality reporting programs, are already either NQF-endorsed and in use or finalized for use, or already previewed by the Measure Applications Partnership (MAP) with support;
- Minimize added burden on HHAs;
- Minimize or avoid, to the extent feasible, revisions to the existing items in assessment tools currently in use (for example, the OASIS); and
- Where possible, the avoidance duplication of existing assessment items.

In our selection and specification of measures, we employ a transparent process in which we seek input from stakeholders and national experts and engage in a process that allows for pre-rulemaking input on each measure, as required by section 1890A of the Act. This process is based on a private public partnership, and it occurs via the MAP. The MAP is composed of multistakeholder groups convened by the NQF, our current contractor under section 1890 of the Act, to provide input on the selection of quality and efficiency measures described in section 1890(b)(7)(B). The NQF must convene these stakeholders and provide us with the stakeholders' input on the selection of such measures. We, in turn, must take this input into consideration in selecting such measures. In addition, the Secretary must make available to the public by December 1 of each year a list of such measures that the Secretary is considering under Title XVIII of the Act. As discussed in section V.A. of this proposed rule 1899B(e)(3) provides that the pre-rulemaking process required by section 1890A of the Act applies to the measures required under section 1899B, subject to certain exceptions for expedited procedures or, alternatively, waiver of section 1890A. We initiated an ad hoc MAP process for the review of the quality measures under consideration for proposal, in preparation for adoption of those quality measures into the HH QRP that are required by the IMPACT Act, and that must be implemented by January 1, 2017. The List of Measures under Consideration (MUC List) under the IMPACT Act was made public on February 5, 2015. Under the IMPACT Act, these measures must be standardized so they can be applied across PAC settings and must correspond to measure domains specified in sections 1899B(c)(1) and (d)(1) of the IMPACT Act. The MAP reviewed each IMPACT Act-related quality measure proposed in this proposed rule for the HH QRP, in light of its intended cross-setting use. We refer to sections V.A. and V.C. of this proposed rule for more information on the MAP's recommendations. The MAP's final report, MAP Off-Cycle Deliberations 2015: Measures under Consideration to Implement Provisions of the IMPACT Act: Final Report, is available at *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Reports.aspx.* As discussed in section V.A. of this proposed rule, section 1899B(j) of the Act, requires that we allow for stakeholder input, such as through town halls, open door forums, and mailbox submissions, before the initial rulemaking process to implement section 1899B. To meet this requirement, we provided the following opportunities for stakeholder input: (a) We convened a technical expert panel (TEP) that included stakeholder experts and patient representatives on February 3, 2015; (b) we provided two separate listening sessions on February 10th and March 24, 2015; (c) we sought public input during the February 2015 ad hoc MAP process regarding the measures under consideration with respect to IMPACT Act domains; (d) we sought public comment as part of our measure maintenance work; and (e) we implemented a public mail box for the submission of comments in January, 2015 located at *PACQualityInitiative@cms.hhs.gov.* The CMS public mailbox can be accessed on our post-acute care quality initiatives Web site: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/IMPACT-Act-of-2014-and-Cross-Setting-Measures.html.* Lastly, we held a National Stakeholder Special Open Door Forum to seek input on the measures on February 25, 2015.

In the absence of NQF endorsement on measures for the home health setting, or measures that are not fully supported by the MAP for the HH QRP, we intend to propose for adoption measures that most closely align with the national priorities discussed above and for which the MAP supports the measure concept. Further discussion as to the importance and high-priority status of these measures in the HH setting is included under each quality measure proposal in this proposed rule. In addition, for measures not endorsed by the NQF, we have sought, to the extent practicable, to adopt measures that have been endorsed or adopted by a national consensus organization, recommended by multi-stakeholder organizations, and/or developed with the input of providers, purchasers/payers, and other stakeholders.

C. HH QRP Quality Measures and Measures Under Consideration for Future Years

In the CY 2014 HH PPS final rule, (78 FR 72256–72320), we finalized a proposal to add two claims-based measures to the HH QRP, and stated that we would begin reporting the data from these measures to HHAs beginning in CY 2014. These claims based measures are: (1) Rehospitalization during the first 30 days of HH; and (2) Emergency Department Use without Hospital Readmission during the first 30 days of HH. In an effort to align with other updates to Home Health Compare, including the transition to quarterly provider preview reports, we have made the decision to delay the reporting of data from these measures until July 2015 (*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQISpotlight.html*). Also in that rule, we finalized our proposal to reduce the number of process measures reported on the Certification and Survey Provider Enhanced Reporting (CASPER) reports by eliminating the stratification by

episode length for nine (9) process measures. The removal of these measures from the CASPER folders occurred in October 2014. The CMS Home Health Quality Initiative Web site identifies the current HH QRP measures located at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIQualityMeasures.html.* In addition, as stated in the CY 2012 and CY 2013 HH PPS final rules (*76 FR 68575* and *77 FR 67093,* respectively), we finalized that we will also use measures derived from Medicare claims data to measure home health quality. This effort ensures that providers do not have an additional burden of reporting quality of care measures through a separate mechanism, and that the costs associated with the development and testing of a new reporting mechanism are avoided.

(a) We are proposing one standardized cross-setting new measure for CY 2016 to meet the requirements of the IMPACT Act. The proposed quality measure that addresses the domain of skin integrity and changes in skin integrity is the National Quality Forum (NQF)-endorsed measure: Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) (*http://www.qualityforum.org/QPS/0678*).

The IMPACT Act requires the specification of a quality measure to address skin integrity and changes in skin integrity in the home health setting by January 1, 2017. We are proposing the implementation of the quality measure NQF #0678, Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay) in the HH QRP as a cross-setting quality measure to meet the requirements of the IMPACT Act for the CY 2018 payment determination and subsequent years. This measure reports the percent of patients with Stage 2 through 4 pressure ulcers that are new or worsened since the beginning of the episode of care.

Pressure ulcers are high-volume in post-acute care settings and high-cost adverse events. According to the 2014 Prevention and Treatment Guidelines published by the National Pressure Ulcer Advisory Panel, European Pressure Ulcer Advisory Panel, and Pan Pacific Pressure Injury Alliance, pressure ulcer care is estimated to cost approximately $11 billion annually, and between $500 and $70,000 per individual pressure ulcer.[64] Pressure ulcers are a serious medical condition that result in pain, decreased quality of life, and increased mortality in aging populations.[65] [66] [67] [68] Pressure ulcers typically are the result of prolonged periods of uninterrupted pressure on the skin, soft tissue, muscle, and bone.[69] [70] [71] Elderly individuals are prone to a wide range of medical conditions that increase their risk of developing pressure ulcers. These include impaired mobility or sensation, malnutrition or undernutrition, obesity, stroke, diabetes, dementia, cognitive impairments, circulatory diseases, dehydration, bowel or bladder incontinence, the use of wheelchairs, the use of medical devices, polypharmacy, and a history of pressure ulcers or a pressure ulcer at admission.[72] [73] [74] [75] [76] [77] [78] [79] [80] [81] [82]

The IMPACT Act requires the specification of quality measures that are harmonized across PAC settings. This requirement is consistent with the NQF Steering Committee report, which stated that to understand the impact of pressure ulcers across settings, quality measures addressing prevention, incidence, and prevalence of pressure ulcers must be harmonized and aligned.[83] NQF #0678, Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) is NQF-endorsed and has been successfully implemented using a harmonized set of data elements in IRF, LTCH, and SNF settings. A new item, M1309 was added to the OASIS–C1/ICD–9 version to collect data on new and worsened pressure ulcers in home health patients to support harmonization with NQF #0678; data collection for this item began January 1, 2015. A new measure, based on this item, was included in the 2014 MUC list and received conditional endorsement from the National Quality Forum. That measure was harmonized with NQF #0678, but differed in the consideration of unstageable pressure ulcers. In this rule, we are proposing a HH measure that is fully-standardized with NQF #0678.

A TEP convened by our measure development contractor provided input on the technical specifications of this quality measure, including the feasibility of implementing the measure across PAC settings. The TEP was supportive of the implementation of this measure across PAC settings and applauded CMS's efforts to standardize this measure for cross-setting development. Additionally, the NQF MAP met on February 9, 2015 and

[64] National Pressure Ulcer Advisory Panel, European Pressure Ulcer Advisory Panel and Pan Pacific Pressure Injury Alliance. Prevention and Treatment of Pressure Ulcers: Clinical Practice Guideline. Emily Haesler (Ed.) Cambridge Media; Osborne Park, Western Australia; 2014.

[65] Casey, G. (2013). ''Pressure ulcers reflect quality of nursing care.'' Nurs N Z 19(10): 20–24.

[66] Gorzoni, M. L., and S. L. Pires (2011). ''Deaths in nursing homes.'' Rev Assoc Med Bras 57(3): 327–331.

[67] Thomas, J. M., et al. (2013). ''Systematic review: health-related characteristics of elderly hospitalized adults and nursing home residents associated with short-term mortality.'' *J Am Geriatr Soc* 61(6): 902–911.

[68] White-Chu, E. F., et al. (2011). ''Pressure ulcers in long-term care.'' Clin Geriatr Med 27(2): 241–258.

[69] Bates-Jensen BM. Quality indicators for prevention and management of pressure ulcers in vulnerable elders. Ann Int Med. 2001;135 (8 Part 2), 744–51.

[70] Institute for Healthcare Improvement (IHI). Relieve the pressure and reduce harm. May 21, 2007. Available from *http://www.ihi.org/IHI/Topics/PatientSafety/SafetyGeneral/ImprovementStories/FSRelievethePressureandReduceHarm.htm.*

[71] Russo CA, Steiner C, Spector W. Hospitalizations related to pressure ulcers among adults 18 years and older, 2006 (Healthcare Cost and Utilization Project Statistical Brief No. 64). December 2008. Available from *http://www.hcupus.ahrq.gov/reports/statbriefs/sb64.pdf.*

[72] Agency for Healthcare Research and Quality (AHRQ). Agency news and notes: pressure ulcers are increasing among hospital patients. January 2009. Available from *http://www.ahrq.gov/research/jan09/0109RA22.htm.=.*

[73] Bates-Jensen BM. Quality indicators for prevention and management of pressure ulcers in vulnerable elders. Ann Int Med. 2001;135 (8 Part 2), 744–51.

[74] Cai, S., et al. (2013). ''Obesity and pressure ulcers among nursing home residents.'' Med Care 51(6): 478–486.

[75] Casey, G. (2013). ''Pressure ulcers reflect quality of nursing care.'' Nurs N Z 19(10): 20–24.

[76] Hurd D, Moore T, Radley D, Williams C. Pressure ulcer prevalence and incidence across post-acute care settings. Home Health Quality Measures & Data Analysis Project, Report of Findings, prepared for CMS/OCSQ, Baltimore, MD, under Contract No. 500–2005–000181 TO 0002. 2010.

[77] MacLean DS. Preventing & managing pressure sores. Caring for the Ages. March 2003;4(3):34–7. Available from *http://www.amda.com/publications/caring/march2003/policies.cfm.*

[78] Michel, J. M., et al. (2012). ''As of 2012, what are the key predictive risk factors for pressure ulcers? Developing French guidelines for clinical practice.'' Ann Phys Rehabil Med 55(7): 454–465.

[79] National Pressure Ulcer Advisory Panel (NPUAP) Board of Directors; Cuddigan J, Berlowitz DR, Ayello EA (Eds). Pressure ulcers in America: prevalence, incidence, and implications for the future. An executive summary of the National Pressure Ulcer Advisory Panel Monograph. Adv Skin Wound Care. 2001;14(4):208–15.

[80] Park-Lee E, Caffrey C. Pressure ulcers among nursing home residents: United States, 2004 (NCHS Data Brief No. 14). Hyattsville, MD: National Center for Health Statistics, 2009. Available from *http://www.cdc.gov/nchs/data/databriefs/db14.htm.*

[81] Reddy, M. (2011). ''Pressure ulcers.'' Clin Evid (Online) 2011.

[82] Teno, J. M., et al. (2012). ''Feeding tubes and the prevention or healing of pressure ulcers.'' Arch Intern Med 172(9): 697–701.

[83] National Quality Forum. National voluntary consensus standards for developing a framework for measuring quality for prevention and management of pressure ulcers. April 2008. Available from *http://www.qualityforum.org/Projects/Pressure_Ulcers.aspx.*

February 27, 2015 and provided input to CMS. The MAP supported the use of NQF #0678, Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay) in the HH QRP as a cross-setting quality measure implemented under the IMPACT Act. More information about the MAPs recommendations for this measure is available at *http://www.qualityforum.org/map/.*

We propose that data for the standardized quality measure would be collected using the OASIS–C1 with submission through the Quality Improvement and Evaluation System (QIES) Assessment Submission and Processing (ASAP) system. HHAs began submitting data in January 2015 for the OASIS items used to calculate NQF #0678, the Percent of Residents, or Patients with Pressure Ulcers That Are New or Worsened (Short Stay), as part of the Home Health Quality Initiative to assess the number of new or worsened pressure ulcers in January 2015. By building on the existing reporting and submission infrastructure for HHAs, we intend to minimize the administrative burden related to data collection and submission for this measure under the HH QRP. For more information on HH reporting using the QIES ASAP system, refer to: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIOASISUserManual.html* and *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/OASIS/index.html?redirect=/oasis/.*

Data collected through the OASIS–C1 would be used to calculate this quality measure. Data items in the OASIS–C1 include M1308 (Current Number of Unhealed Pressure Ulcers at Each Stage or Unstageable) and M1309 (Worsening in Pressure Ulcer Status Since SOC/ROC). Data collected through the OASIS–C1 would be used for risk adjustment of this measure. We anticipate risk adjustment items would include, but is not limited to M1850 (Activities of Daily Living Assistance, Transferring), and M1620 (Bowel Incontinence Frequency). OASIS C1 items M1016 (Diagnoses Requiring Medical or Treatment Change Within past 14 Days), M1020 (Primary Diagnoses) and M1022 (Other Diagnoses) would be used to identify patients with a diagnosis of peripheral vascular disease, diabetes, or malnutrition. More information about the OASIS items is available in the OASIS Manual *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIOASISUserManual.html.*

The calculation of the proposed measure would be based on the items M1308 (Current Number of Unhealed Pressure Ulcers at Each Stage or Unstageable) and M1309 (Worsening in Pressure Ulcer Status Since SOC/ROC). The specifications and data items for NQF #0678, the Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay), are available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/PAC-Quality-Initiatives.html.*

We invite public comment on our proposal to adopt NQF #0678 Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay) for the HH QRP to fulfill the timeline requirements for implementation under the IMPACT Act, for CY2018 HH payment determination and subsequent years.

As part of our ongoing measure development efforts, we are considering a future update to the numerator of the quality measure NQF #0678, Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay). This update would hold providers accountable for the development of unstageable pressure ulcers and suspected deep tissue injuries (sDTIs). Under this proposed change the numerator of the quality measure would be updated to include unstageable pressure ulcers, including sDTIs that are new/developed while the patient is receiving home health care, as well as Stage 1 or 2 pressure ulcers that become unstageable due to slough or eschar (indicating progression to a full thickness [that is, stage 3 or 4] pressure ulcer) after admission. This would be consistent with the specifications of the ''New and Worsened Pressure Ulcer'' measure for HH patients presented to the MAP on the 2014 MUC list. At this time, we are not proposing the implementation of this change (that is, including sDTIs and unstageable pressure ulcers in the numerator) in the HH QRP, but are soliciting public feedback on this potential area of measure development.

Our measure development contractor convened a cross-setting pressure ulcer TEP that strongly recommended that CMS hold providers accountable for the development of new unstageable pressure ulcers and sDTIs by including these pressure ulcers in the numerator of the quality measure. Although the TEP acknowledged that unstageable pressure ulcers and sDTIs cannot and should not be assigned a numeric stage, panel members recommended that these be included in the numerator of NQF #0678, the Percent of Residents, or Patients with Pressure Ulcers That Are New or Worsened (Short Stay), as a new pressure ulcer if developed during a home health episode. The TEP also recommended that a Stage 1 or 2 pressure ulcer that becomes unstageable due to slough or eschar should be considered worsened because the presence of slough or eschar indicates a full thickness (equivalent to Stage 3 or 4) wound.[84] [85] These recommendations were supported by technical and clinical advisors and the National Pressure Ulcer Advisory Panel.[86] Additionally, exploratory data analysis conducted by our measure development contractor suggests that the addition of unstageable pressure ulcers, including sDTIs, would increase the observed incidence of new or worsened pressure ulcers at the agency level and may improve the ability of the quality measure to discriminate between poor- and high-performing facilities.

In addition, we are also considering whether body mass index (BMI) should be used as a covariate for risk-adjusting NQF #0678 in the home health setting, as is done in other post-acute care settings. We invite public feedback to inform our direction to include unstageable pressure ulcers and sDTIs in the numerator of the quality measure NQF #0678 Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay), as well as on the possible collection of height

[84] Schwartz, M., Nguyen, K.H., Swinson Evans, T.M., Ignaczak, M.K., Thaker, S., and Bernard, S.L.: Development of a Cross-Setting Quality Measure for Pressure Ulcers: OY2 Information Gathering, Final Report. Centers for Medicare & Medicaid Services, November 2013. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Quality-Measure-for-Pressure-Ulcers-Information-Gathering-Final-Report.pdf*

[85] Schwartz, M., Ignaczak, M.K., Swinson Evans, T.M., Thaker, S., and Smith, L.: The Development of a Cross-Setting Pressure Ulcer Quality Measure: Summary Report on November 15, 2013, Technical Expert Panel Follow-Up Webinar. Centers for Medicare & Medicaid Services, January 2014. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Pressure-Ulcer-Quality-Measure-Summary-Report-on-November-15-2013-Technical-Expert-Pa.pdf*

[86] Schwartz, M., Nguyen, K.H., Swinson Evans, T.M., Ignaczak, M.K., Thaker, S., and Bernard, S.L.: Development of a Cross-Setting Quality Measure for Pressure Ulcers: OY2 Information Gathering, Final Report. Centers for Medicare & Medicaid Services, November 2013. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Quality-Measure-for-Pressure-Ulcers-Information-Gathering-Final-Report.pdf*

and weight data for risk-adjustment, as part of our future measure development efforts.

(b) We have also identified four future, cross-setting measure constructs to potentially meet requirements of the IMPACT Act domains of: (1) All-condition risk-adjusted potentially preventable hospital readmission rates; (2) resource use, including total estimated Medicare spending per beneficiary; (3) discharge to community; and (4) medication reconciliation. These are shown in Table 22; we would like to solicit public feedback to inform future measure development of these constructs as it relates to meeting the IMPACT Act requirements in these areas.

TABLE 22—FUTURE CROSS-SETTING MEASURE CONSTRUCTS UNDER CONSIDERATION TO MEET IMPACT ACT REQUIREMENTS

[Home Health Timeline for Implementation—January 1, 2017]

IMPACT Act domain	Measures to reflect all-condition risk-adjusted potentially preventable hospital readmission rates
Measures	Application of (NQF #2510)*: Skilled Nursing Facility 30-Day All-Cause Readmission Measure (SNFRM)* CMS is the steward.
	Application of the LTCH/IRF All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from LTCHs/IRFs.
IMPACT Act Domain	Resource Use, including total estimated Medicare spending per beneficiary.
Measure	Payment Standardized Medicare Spending Per Beneficiary (MSPB).
IMPACT Act Domain	Discharge to community.
Measure	Percentage residents/patients at discharge assessment, who discharged to a higher level of care versus to the community.
IMPACT Act Domain	Medication Reconciliation.
Measure	Percent of patients for whom any needed medication review actions were completed.

(c) We are working with our measure development and maintenance contractor to identify setting-specific measure concepts for future implementation in the HH QRP that align with or complement current measures and new measures to meet domains specified in the IMPACT Act. In identifying priority areas for future measure enhancement and development, we take into consideration results of environmental scans and resulting gaps analysis for relevant home health quality measure constructs, along with input from numerous stakeholders, including the Measures Application Partnership (MAP), the Medicare Payment Advisory Commission (MedPAC), Technical Expert Panels, and national priorities, such as those established by the National Priorities Partnership, the HHS Strategic Plan, the National Strategy for Quality Improvement in Healthcare, and the CMS Quality Strategy. Based on input from stakeholders, CMS has identified several high priority concept areas for future measure development in Table 23.

TABLE 23—FUTURE SETTING-SPECIFIC MEASURE CONSTRUCTS UNDER CONSIDERATION

National quality strategy domain	Measure construct
Safety	*Falls risk composite process measure:* Percentage of home health patients who were assessed for falls risk and whose care plan reflects the assessment, and which was implemented appropriately.
Effective Prevention and Treatment	*Nutrition assessment composite measure:* Percentage of home health patients who were assessed for nutrition risk with a validated tool and whose care plan reflects the assessment, and which was implemented appropriately.
	Improvement in Dyspnea in Patients with a Primary Diagnosis of Congestive Heart Failure (CHF), Chronic Obstructive Pulmonary Disease (COPD), and/or Asthma: Percentage of home health episodes of care during which a patient with a primary diagnosis of CHF, asthma and/or COPD became less short of breath or dyspneic.
	Improvement in Patient-Reported Interference due to Pain: Percent of home health patients whose self-reported level of pain interference on the Patient-Reported Objective Measurement Information System (PROMIS) tool improved.
	Improvement in Patient-Reported Pain Intensity: Percent of home health patients whose self-reported level of pain severity on the PROMIS tool improved.
	Improvement in Patient-Reported Fatigue: Percent of home health patients whose self-reported level of fatigue on the PROMIS tool improved.
	Stabilization in 3 or more Activities of Daily Living (ADLs): Percent of home health patients whose functional scores remain the same between admission and discharge for at least 3 ADLs.

These measure concepts are under development, and details regarding measure definitions, data sources, data collection approaches, and timeline for implementation would be communicated in future rulemaking. We invite feedback about these seven high priority concept areas for future measure development.

D. Form, Manner, and Timing of OASIS Data Submission and OASIS Data for Annual Payment Update

1. Regulatory Authority

The HH conditions of participation (CoPs) at § 484.55(d) require that the

comprehensive assessment must be updated and revised (including the administration of the OASIS) no less frequently than: (1) The last 5 days of every 60 days beginning with the start of care date, unless there is a beneficiary-elected transfer, significant change in condition, or discharge and return to the same HHA during the 60-day episode; (2) within 48 hours of the patient's return to the home from a hospital admission of 24-hours or more for any reason other than diagnostic tests; and (3) at discharge.

It is important to note that to calculate quality measures from OASIS data, there must be a complete quality episode, which requires both a Start of Care (initial assessment) or Resumption of Care OASIS assessment and a Transfer or Discharge OASIS assessment. Failure to submit sufficient OASIS assessments to allow calculation of quality measures, including transfer and discharge assessments, is a failure to comply with the CoPs.

HHAs do not need to submit OASIS data for those patients who are excluded from the OASIS submission requirements. As described in the December 23, 2005 Medicare and Medicaid Programs: Reporting Outcome and Assessment Information Set Data as Part of the Conditions of Participation for Home Health Agencies final rule (70 FR 76202), we defined the exclusion as those patients:

- Receiving only non-skilled services;
- For whom neither Medicare nor Medicaid is paying for HH care (patient receiving care under a Medicare or Medicaid Managed Care Plan are not excluded from the OASIS reporting requirement);
- Receiving pre- or post-partum services; or
- Under the age of 18 years.

As set forth in the CY 2008 HH PPS final rule (72 FR 49863), HHAs that become Medicare certified on or after May 31 of the preceding year are not subject to the OASIS quality reporting requirement nor any payment penalty for quality reporting purposes for the following year. For example, HHAs certified on or after May 31, 2014 are not subject to the 2 percentage point reduction to their market basket update for CY 2015. These exclusions only affect quality reporting requirements and do not affect the HHAs' reporting responsibilities as announced in the December 23, 2005 final rule, Medicare and Medicaid Programs; Reporting Outcome and Assessment Information Set Data as Part of the Conditions of Participation for Home Health Agencies (70 FR 76202).

2. Home Health Quality Reporting Program Requirements for CY 2016 Payment and Subsequent Years

In the CY 2014 HH PPS Final rule (78 FR 72297), we finalized a proposal to consider OASIS assessments submitted by HHAs to CMS in compliance with HH CoPs and Conditions for Payment for episodes beginning on or after July 1, 2012, and before July 1, 2013 as fulfilling one portion of the quality reporting requirement for CY 2014.

In addition, we finalized a proposal to continue this pattern for each subsequent year beyond CY 2014. OASIS assessments submitted for episodes beginning on July 1st of the calendar year 2 years prior to the calendar year of the Annual Payment Update (APU) effective date and ending June 30th of the calendar year one year prior to the calendar year of the APU effective date, fulfill the OASIS portion of the HH QRP requirement.

3. Previously Established Pay-for-Reporting Performance Requirement for Submission of OASIS Quality Data

Section 1895(b)(3)(B)(v)(I) of the Act states that for 2007 and each subsequent year, the home health market basket percentage increase applicable under such clause for such year shall be reduced by 2 percentage points if a home health agency does not submit data to the Secretary in accordance with subclause (II) with respect to such a year. This pay-for-reporting requirement was implemented on January 1, 2007. In the CY 2015 HH PPS Final rule (79 FR 38387), we finalized a proposal to define the quantity of OASIS assessments each HHA must submit to meet the pay-for-reporting requirement.

We believe that defining a more explicit performance requirement for the submission of OASIS data by HHAs would better meet section 5201(c)(2) of the Deficit Reduction Act of 2005 (DRA), which requires that each home health agency shall submit to the Secretary such data that the Secretary determines are appropriate for the measurement of health care quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

In the CY 2015 HH PPS Final rule (79 FR 38387), we reported information on a study performed by the Department of Health & Human Services, Office of the Inspector General (OIG) in February 2012 to: (1) Determine the extent to which HHAs met federal reporting requirements for the OASIS data; (2) to determine the extent to which states met federal reporting requirements for OASIS data; and (3) to determine the extent to which CMS was overseeing the accuracy and completeness of OASIS data submitted by HHAs. Based on the OIG report we proposed a performance requirement for submission of OASIS quality data, which would be responsive to the recommendations of the OIG.

In response to these requirements and the OIG report, we designed a pay-for-reporting performance system model that could accurately measure the level of an HHA's submission of OASIS data. The performance system is based on the principle that each HHA is expected to submit a minimum set of two matching assessments for each patient admitted to their agency. These matching assessments together create what is considered a quality episode of care, consisting ideally of a Start of Care (SOC) or Resumption of Care (ROC) assessment and a matching End of Care (EOC) assessment. However, it was determined that there are several scenarios that could meet this matching assessment requirement of the new pay-for-reporting performance requirement. These scenarios or quality assessments are defined as assessments that create a quality episode of care during the reporting period or could create a quality episode if the reporting period were expanded to an earlier reporting period or into the next reporting period.

Seven types of assessments submitted by an HHA fit this definition of a quality assessment. These are:

1. A Start of Care (SOC; M0100 = '01') or Resumption of Care (ROC; M0100 = '03') assessment that can be matched to an End of Care (EOC; M0100 = '06', '07', '08', or '09') assessment. These SOC/ROC assessments are the first assessment in the pair of assessments that create a standard quality of care episode describe in the previous paragraph.

2. An End of Care (EOC) assessment that can be matched to a Start of Care (SOC) or Resumption of Care (ROC) assessment. These EOC assessments are the second assessment in the pair of assessments that create a standard quality of care episode describe in the previous paragraph.

3. A SOC/ROC assessment that could begin an episode of care, but the assessment occurs in the last 60 days of the performance period. This is labeled as a Late SOC/ROC quality assessment. The assumption is that the EOC assessment will occur in the next reporting period.

4. An EOC assessment that could end an episode of care that began in the previous reporting period, (that is, an EOC that occurs in the first 60 days of the performance period). This is labeled as an Early EOC quality assessment. The

assumption is that the matching SOC/ROC assessment occurred in the previous reporting period.

5. A SOC/ROC assessment that is followed by one or more follow-up assessments, the last of which occurs in the last 60 days of the performance period. This is labeled as an SOC/ROC Pseudo Episode quality assessment.

6. An EOC assessment is preceded by one or more follow-up assessments, the first of which occurs in the first 60 days of the performance period. This is labeled an EOC Pseudo Episode quality assessment.

7. A SOC/ROC assessment that is part of a known one-visit episode. This is labeled as a One-Visit episode quality assessment. This determination is made by consulting HH claims data.

SOC, ROC, and EOC assessments that do not meet any of these definitions are labeled as Non-Quality assessments. Follow-up assessments (that is, where the M0100 Reason for Assessment = '04' or '05') are considered Neutral assessments and do not count toward or against the pay-for-reporting performance requirement.

Compliance with this performance requirement can be measured through the use of an uncomplicated mathematical formula. This pay-for-reporting performance requirement metric has been titled as the ''Quality Assessments Only'' (QAO) formula because only those OASIS assessments that contribute, or could contribute, to creating a quality episode of care are included in the computation.

The formula based on this definition is as follows:

$$QAO = \frac{(\#\ of\ Quality\ Assessments)}{(\#\ of\ Quality\ Assessments\ +\ \#\ of\ NonQuality\ Assessments)} * 100$$

Our ultimate goal is to require all HHAs to achieve a pay-for-reporting performance requirement compliance rate of 90 percent or more, as calculated using the QAO metric illustrated above. In the CY 2015 HH PPS final rule (79 FR 66074), we proposed implementing a pay-for-reporting performance requirement over a three-year period. After consideration of the public comments received, we adopted as final our proposal to establish a pay-for-reporting performance requirement for assessments submitted on or after July 1, 2015 and before June 30, 2016 with appropriate start of care dates, HHAs must score at least 70 percent on the QAO metric of pay-for-reporting performance requirement or be subject to a 2 percentage point reduction to their market basket update for CY 2017.

HHAs have been statutorily required to report OASIS for a number of years and therefore should have many years of experience with the collection of OASIS data and transmission of this data to CMS. Given the length of time that HHAs have been mandated to report OASIS data and based on preliminary analyses that indicate that the majority of HHAs are already achieving the target goal of 90 percent on the QAO metric, we believe that HHAs would adapt quickly to the implementation of the pay-for-reporting performance requirement, if phased in over a three-year period.

In the CY2015 rule, we did not finalize a proposal to increase the reporting requirement in 10 percent increments over a two-year period until the maximum rate of 90 percent is reached, but instead proposed to analyze historical data to set the reporting requirements. To set the threshold for the 2nd year, we analyzed the most recently available data, from 2013 and 2014, to make a determination about what the pay-for-reporting performance requirement should be. Specifically, we reviewed OASIS data from this time period simulating the pay-for-reporting performance 70 percent submission requirement to determine the hypothetical performance of each HHA as if the pay-for-reporting performance requirement were in effect during the reporting period preceding its implementation. This analysis indicated a nominal increase of 10 percent each year would provide the greatest opportunity for successful implementation versus an increase of 20 percent from year 1 to year 2.

Based on this analysis, we propose to set the performance threshold at 80 percent for the reporting period from July 1, 2016 through June 30, 2017. For the reporting period from July 1, 2017 through June 30, 2018 and thereafter, we propose the performance threshold would be 90 percent.

We provided a report to each HHA of their hypothetical performance under the pay-for-reporting performance requirement during the 2014–2015 pre-implementation reporting period in June 2015. On January 1, 2015, the data submission process for OASIS converted from the current state-based OASIS submission system to a new national OASIS submission system known as the Assessment Submission and Processing (ASAP) System. On July 1, 2015, when the pay-for-reporting performance requirement of 70 percent goes into effect, providers would be required to submit their OASIS assessment data into the ASAP system. Successful submission of an OASIS assessment would consist of the submission of the data into the ASAP system with a receipt of no fatal error messages. Error messages received during submission can be an indication of a problem that occurred during the submission process and could also be an indication that the OASIS assessment was rejected. Successful submission can be verified by ascertaining that the submitted assessment data resides in the national database after the assessment has met all of the quality standards for completeness and accuracy during the submission process. Should one or more OASIS assessments submitted by a HHA be rejected due to an IT/servers issue caused by CMS, we may, at our discretion, excuse the non-submission of OASIS data. We anticipate that such a scenario would rarely, if ever, occur. In the event that a HHA believes, they were unable to submit OASIS assessments due to an IT/server issue on the part of CMS, the HHA should be prepared to provide any documentation or proof available, which demonstrates that no fault on their part contributed to the failure of the OASIS records to transmit to CMS.

The initial performance period for the pay-for-reporting performance requirement would be July 1, 2015 through June 30, 2016. Prior to and during this performance period, we have scheduled Open Door Forums and webinars to educate HHA personnel as needed about the pay-for-reporting performance requirement program and the pay-for- reporting performance QAO metric, and distributed individual provider preview reports. Additionally, OASIS Education Coordinators (OECs) would be trained to provide state-level instruction on this program and metric. We have already posted a report, which provides a detailed explanation of the methodology for this pay-for-reporting QAO methodology. To view this report, go to: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-*

Instruments/HomeHealthQualityInits/Home-Health-Quality-Reporting-Requirements.html. Training announcements and additional educational information related to the pay-for-reporting performance requirement would be provided on the HH Quality Initiatives Web page. We invite public comment on our proposal to implement an 80 percent Pay-for-Reporting Performance Requirement for Submission of OASIS Quality Data for Year 2 reporting period July 1, 2016 to June 30, 2017 as described previously, for the HH QRP.

E. Home Health Care CAHPS Survey (HHCAHPS)

In the CY 2015 HH PPS final rule (79 FR 66031), we stated that the home health quality measures reporting requirements for Medicare-certified agencies include the Home Health Care CAHPS® (HHCAHPS) Survey for the CY 2015 Annual Payment Update (APU). We maintained the stated HHCAHPS data requirements for CY 2015 set out in previous rules, for the continuous monthly data collection and quarterly data submission of HHCAHPS data.

1. Background and Description of HHCAHPS

As part of the HHS Transparency Initiative, we implemented a process to measure and publicly report patient experiences with home health care, using a survey developed by the Agency for Healthcare Research and Quality's (AHRQ's) Consumer Assessment of Healthcare Providers and Systems (CAHPS®) program and originally endorsed by the NQF in March 2009 (NQF Number 0517) and recently NQF re-endorsed in 2015. The HHCAHPS survey is part of a family of CAHPS® surveys that asks patients to report on and rate their experiences with health care. The HHCAHPS Survey is approved under OMB Control Number 0938–1066 through May 31, 2017. The Home Health Care CAHPS® (HHCAHPS) survey presents home health patients with a set of standardized questions about their home health care providers and about the quality of their home health care.

Prior to the HHCAHPS survey, there was no national standard for collecting information about patient experiences that enabled valid comparisons across all HHAs. The history and development process for HHCAHPS has been described in previous rules and is also available on the official HHCAHPS Web site at *https://homehealthcahps.org* and in the annually-updated *HHCAHPS Protocols and Guidelines Manual,* which is downloadable from *https://homehealthcahps.org.*

For public reporting purposes, we report five measures from the HHCAHPS Survey—three composite measures and two global ratings of care that are derived from the questions on the HHCAHPS survey. The publicly reported data are adjusted for differences in patient mix across HHAs. We update the HHCAHPS data on Home Health Compare on *www.medicare.gov* quarterly. HHCAHPS data was first publicly reported in April 2012 on Home Health Compare. Each HHCAHPS composite measure consists of four or more individual survey items regarding one of the following related topics:

- Patient care (Q9, Q16, Q19, and Q24);
- Communications between providers and patients (Q2, Q15, Q17, Q18, Q22, and Q23); and
- Specific care issues on medications, home safety, and pain (Q3, Q4, Q5, Q10, Q12, Q13, and Q14).

The two global ratings are the overall rating of care given by the HHA's care providers (Q20), and the patient's willingness to recommend the HHA to family and friends (Q25).

The HHCAHPS survey is currently available in English, Spanish, Chinese, Russian, and Vietnamese. The OMB number on these surveys is the same (0938–1066). All of these surveys are on the Home Health Care CAHPS® Web site, *https://homehealthcahps.org.* If you need additional language translations of the HHCAHPS Survey, please contact us at *HHCAHPS@rti.org.*

All of the requirements about home health patient eligibility for the HHCAHPS survey and conversely, which home health patients are ineligible for the HHCAHPS survey are delineated and detailed in the *HHCAHPS Protocols and Guidelines Manual,* which is downloadable at *https://homehealthcahps.org.* We update the HHCAHPS Protocols and Guidelines Manual annually, and the current version is 7.0. Home health patients are eligible for HHCAHPS if they received at least two skilled home health visits in the past 2 months, which are paid for by Medicare or Medicaid.

Home health patients are *ineligible* for inclusion in HHCAHPS surveys if one of these conditions pertains to them:

- Are under the age of 18;
- Are deceased prior to the date the sample is pulled;
- Receive hospice care;
- Receive routine maternity care only;
- Are not considered survey eligible because the state in which the patient lives restricts release of patient information for a specific condition or illness that the patient has; or
- No Publicity patients, defined as patients who on their own initiative at their first encounter with the HHAs make it very clear that no one outside of the agencies can be advised of their patient status, and no one outside of the HHAs can contact them for any reason.

We stated in previous rules that Medicare-certified HHAs are required to contract with an approved HHCAHPS survey vendor. This requirement continues, and Medicare-certified agencies also must provide on a monthly basis a list of all their survey-eligible home health care patients served to their respective HHCAHPS survey vendors. Agencies are not allowed to influence at all how their patients respond to the HHCAHPS survey.

As previously required, HHCAHPS survey vendors are required to attend introductory and all update trainings conducted by CMS and the HHCAHPS Survey Coordination Team, as well as to pass a post-training certification test. Update training is required annually for all approved HHCAHPS survey vendors. We have approximately 30 approved HHCAHPS survey vendors. The most current list of approved HHCAHPS survey vendors is available at *https://homehealthcahps.org.*

2. HHCAHPS Oversight Activities

We stated in prior final rules that all approved HHCAHPS survey vendors are required to participate in HHCAHPS oversight activities to ensure compliance with HHCAHPS protocols, guidelines, and survey requirements. The purpose of the oversight activities is to ensure that approved HHCAHPS survey vendors follow the *HHCAHPS Protocols and Guidelines Manual.* As stated previously in the six prior final rules to this proposed rule, all HHCAHPS approved survey vendors must develop a Quality Assurance Plan (QAP) for survey administration in accordance with the *HHCAHPS Protocols and Guidelines Manual.* An HHCAHPS survey vendor's first QAP must be submitted within 6 weeks of the data submission deadline date after the vendor's first quarterly data submission. The QAP must be updated and submitted annually thereafter and at any time that changes occur in staff or vendor capabilities or systems. A model QAP is included in the *HHCAHPS Protocols and Guidelines Manual.* The QAP must include the following:

- Organizational Background and Staff Experience;
- Work Plan;
- Sampling Plan;

- Survey Implementation Plan;
- Data Security, Confidentiality and Privacy Plan; and
- Questionnaire Attachments.

As part of the oversight activities, the HHCAHPS Survey Coordination Team conducts on-site visits to all approved HHCAHPS survey vendors. The purpose of the site visits is to allow the HHCAHPS Coordination Team to observe the entire HHCAHPS Survey implementation process, from the sampling stage through file preparation and submission, as well as to assess data security and storage. The HHCAHPS Survey Coordination Team reviews the HHCAHPS survey vendor's survey systems, and assesses administration protocols based on the *HHCAHPS Protocols and Guidelines Manual* posted at *https://homehealthcahps.org.* The systems and program site visit review includes, but is not limited to the following:

- Survey management and data systems;
- Printing and mailing materials and facilities;
- Telephone call center facilities;
- Data receipt, entry and storage facilities; and
- Written documentation of survey processes.

After the site visits, HHCAHPS survey vendors are given a defined time period in which to correct any identified issues and provide follow-up documentation of corrections for review. HHCAHPS survey vendors are subject to follow-up site visits on an as-needed basis.

In the CY 2013 HH PPS final rule (77 FR 67094, 67164), we codified the current guideline that all approved HHCAHPS survey vendors fully comply with all HHCAHPS oversight activities. We included this survey requirement at § 484.250(c)(3).

3. HHCAHPS Requirements for the CY 2016 APU

In the CY 2015 HH PPS final rule (79 FR 66031), we stated that for the CY 2016 APU, we would require continued monthly HHCAHPS data collection and reporting for four quarters. The data collection period for CY 2016, APU includes the second quarter 2014 through the first quarter 2015 (the months of April 2014 through March 2015). Although these dates are past, we wished to state them in this proposed rule so that HHAs are again reminded of what months constituted the requirements for the CY 2016 APU. HHAs are required to submit their HHCAHPS data files to the HHCAHPS Data Center for the HHCAHPS data from the first quarter of 2015 data by 11:59 p.m., EST on July 16, 2015. This deadline is firm; no exceptions are permitted.

For the CY 2016 APU, we required that all HHAs that had fewer than 60 HHCAHPS-eligible unduplicated or unique patients in the period of April 1, 2013 through March 31, 2014 are exempted from the HHCAHPS data collection and submission requirements for the CY 2016 APU, upon completion of the CY 2016 HHCAHPS Participation Exemption Request form, and upon CMS verification of the HHA patient counts. Agencies with fewer than 60 HHCAHPS-eligible, unduplicated or unique patients in the period of April 1, 2013, through March 31, 2014, were required to submit their patient counts on the HHCAHPS Participation Exemption Request form for the CY 2016 APU posted on *https://homehealthcahps.org* by 11:59 p.m., EST on March 31, 2015. This deadline was firm, as are all of the quarterly data submission deadlines for the HHAs that participate in HHCAHPS.

We automatically exempt HHAs receiving Medicare certification after the period in which HHAs do their patient counts. HHAs receiving Medicare certification on or after April 1, 2014 are exempt from the HHCAHPS reporting requirement for the CY 2016 APU. These newly-certified HHAs did not need to complete a HHCAHPS Participation Exemption Request form for the CY 2016 APU.

4. HHCAHPS Requirements for the CY 2017 APU

For the CY 2017 APU, we require continued monthly HHCAHPS data collection and reporting for four quarters. The data collection period for the CY 2017, APU includes the second quarter 2015 through the first quarter 2016 (the months of April 2015 through March 2016). HHAs would be required to submit their HHCAHPS data files to the HHCAHPS Data Center for the second quarter 2015 by 11:59 p.m., EST on October 15, 2015; for the third quarter 2015 by 11:59 p.m., EST on January 21, 2016; for the fourth quarter 2015 by 11:59 p.m., EST on April 21, 2016; and for the first quarter 2016 by 11:59 p.m., EST on July 21, 2016. These deadlines will be firm; no exceptions will be permitted.

For the CY 2017 APU, we require that all HHAs that have fewer than 60 HHCAHPS-eligible unduplicated or unique patients in the period of April 1, 2014 through March 31, 2015 are exempted from the HHCAHPS data collection and submission requirements for the CY 2017 APU, upon completion of the CY 2017 HHCAHPS Participation Exemption Request form, and upon CMS verification of the HHA patient counts. Agencies with fewer than 60 HHCAHPS-eligible, unduplicated or unique patients in the period of April 1, 2014 through March 31, 2015, are required to submit their patient counts on the HHCAHPS Participation Exemption Request form for the CY 2017 APU posted on *https://homehealthcahps.org* by 11:59 p.m., EST on March 31, 2016. This deadline is firm, as are all of the quarterly data submission deadlines for the HHAs that participate in HHCAHPS.

We automatically exempt HHAs receiving Medicare certification after the period in which HHAs do their patient counts. HHAs receiving Medicare certification on or after April 1, 2015 are exempt from the HHCAHPS reporting requirement for the CY 2017 APU. These newly-certified HHAs did not need to complete a HHCAHPS Participation Exemption Request form for the CY 2017 APU.

5. HHCAHPS Requirements for the CY 2018 APU

For the CY 2018 APU, we require continued monthly HHCAHPS data collection and reporting for four quarters. The data collection period for the CY 2018, APU includes the second quarter 2016 through the first quarter 2017 (the months of April 2016 through March 2017). HHAs would be required to submit their HHCAHPS data files to the HHCAHPS Data Center for the second quarter 2016 by 11:59 p.m., EST on October 20, 2016; for the third quarter 2016 by 11:59 p.m., EST on January 19, 2017; for the fourth quarter 2016 by 11:59 p.m., EST on April 20, 2017; and for the first quarter 2017 by 11:59 p.m., EST on July 20, 2017. These deadlines will be firm; no exceptions will be permitted.

For the CY 2018 APU, we require that all HHAs that have fewer than 60 HHCAHPS-eligible unduplicated or unique patients in the period of April 1, 2015 through March 31, 2016 are exempted from the HHCAHPS data collection and submission requirements for the CY 2018 APU, upon completion of the CY 2018 HHCAHPS Participation Exemption Request form, and upon CMS verification of the HHA patient counts. Agencies with fewer than 60 HHCAHPS-eligible, unduplicated or unique patients in the period of April 1, 2015 through March 31, 2016, are required to submit their patient counts on the HHCAHPS Participation Exemption Request form for the CY 2018 APU posted on *https://homehealthcahps.org* by 11:59 p.m., EST on March 31, 2017. This deadline is firm, as are all of the quarterly data

submission deadlines for the HHAs that participate in HHCAHPS.

We automatically exempt HHAs receiving Medicare certification after the period in which HHAs do their patient counts. HHAs receiving Medicare Certification on or after April 1, 2016 are exempt from the HHCAHPS reporting requirement for the CY 2018 APU. These newly-certified HHAs did not need to complete a HHCAHPS Participation Exemption Request form for the CY 2018 APU.

6. HHCAHPS Reconsiderations and Appeals Process

HHAs should monitor their respective HHCAHPS survey vendors to ensure that vendors submit their HHCAHPS data on time, by accessing their HHCAHPS Data Submission Reports on *https://homehealthcahps.org.* This would help HHAs ensure that their data are submitted in the proper format for data processing to the HHCAHPS Data Center.

We will continue HHCAHPS oversight activities as finalized in the CY 2014 rule. In the CY 2013 HH PPS final rule (77 FR 6704, 67164), we codified the current guideline that all approved HHCAHPS survey vendors must fully comply with all HHCAHPS oversight activities. We included this survey requirement at § 484.250(c)(3).

We propose to continue the OASIS and HHCAHPS reconsiderations and appeals process that we have finalized and that we have used for prior periods for the CY 2012, CY 2013, CY 2014, and CY 2015 APU determinations. We have described the reconsiderations process requirements in the CMS Technical Direction Letter that we sent to the affected HHAs, on or in late September. HHAs have 30 days from their receipt of the Technical Direction Letter informing them that they did not meet the OASIS and HHCAHPS requirements for the CY period, to send all documentation that supports their requests for reconsideration to CMS. It is important that the affected HHAs send in comprehensive information in their reconsideration letter/package because we would not contact the affected HHAs to request additional information or to clarify incomplete or inconclusive information. If clear evidence to support a finding of compliance is not present, the 2 percent reduction in the APU would be upheld. If clear evidence of compliance is present, the 2 percent reduction for the APU would be reversed. We notify affected HHAs by December 31st annually for the APU period that begins on January 1st. If we determine to uphold the 2 percent reduction, the HHA may further appeal the 2 percent reduction via the Provider Reimbursement Review Board (PRRB) appeals process. The PRRB contact information is provided to the HHAs receiving letters in December about the CMS reconsideration decisions.

Providers who wish to submit a reconsideration request should continue to follow the reconsideration and appeals process as finalized in the CY 2012, CY 2013, CY 2014, and CY 2015 Home Health Prospective Payment System Rate Update Final Rules.

7. Summary

We are not proposing any changes to the participation requirements, or to the requirements pertaining to the implementation of the Home Health CAHPS® Survey (HHCAHPS). We only updated the information to reflect the dates in the future APU years. We again strongly encourage HHAs to keep up-to-date about the HHCAHPS by regularly viewing the official Web site for the HHCAHPS at *https://homehealthcahps.org.* HHAs can also send an email to the HHCAHPS Survey Coordination Team at *HHCAHPS@rti.org,* or telephone toll-free (1–866–354–0985) for more information about HHCAHPS.

F. Public Display of Home Health Quality Data for the HH QRP

Section 1895(b)(3)(B)(v)(III) of the Act and section 1899B(f) of the IMPACT Act states the Secretary shall establish procedures for making data submitted under subclause (II) available to the public. Such procedures shall ensure that a home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public. We recognize that public reporting of quality data is a vital component of a robust quality reporting program and are fully committed to ensuring that the data made available to the public be meaningful and that comparing performance across home health agencies requires that measures be constructed from data collected in a standardized and uniform manner. We also recognize the need to ensure that each home health agency has the opportunity to review the data before publication. Medicare home health regulations, as codified at § 484.250(a), requires HHAs to submit OASIS assessments and Home Health Care Consumer Assessment of Healthcare Providers and Systems Survey® (HHCAHPS) data to meet the quality reporting requirements of section 1895(b)(3)(B)(v) of the Act.

In addition, beginning April 1, 2015 HHAs began to receive Provider Preview Reports (for all Process Measures and Outcome Measures) on a quarterly, rather than annual, basis. The opportunity for providers to review their data and to submit corrections prior to public reporting aligns with the other quality reporting programs and the requirement for provider review under the IMPACT Act. We provide quality measure data to HHAs via the Certification and Survey Provider Enhanced Reports (CASPER reports), which are available through the CMS Health Care Quality Improvement and Evaluation System (QIES).

As part of our ongoing efforts to make healthcare more transparent, affordable, and accountable, the HH QRP has developed a CMS Compare Web site for home health agencies, which identifies home health providers based on the areas they serve. Consumers can search for all Medicare-certified home health providers that serve their city or ZIP code and then find the agencies offering the types of services they need. A subset of the HH quality measures has been publicly reported on the Home Health Compare (HH Compare) Web site since 2003. The selected measures that are made available to the public can be viewed on the HH Compare Web site located at *http://www.medicare.gov/HHCompare/Home.asp.*

The Affordable Care Act calls for transparent, easily understood information on provider quality to be publicly reported and made widely available. To provide home health care consumers with a summary of existing quality measures in an accessible format, we plan to publish a star rating based on the quality of care measures for home health agencies on Home Health Compare starting in July 2015. This is part of our plan to adopt star ratings across all Medicare.gov Compare Web sites. Star ratings are currently publicly displayed on Nursing Home Compare, Physician Compare, the Medicare Advantage Plan Finder, and Dialysis Facility Compare, and they are scheduled to be displayed on Hospital Compare in 2015.

The Quality of Patient Care star rating methodology assigns each home health agency a rating between one (1) and five (5) stars, using half stars for adjustment and reporting. All Medicare-certified home health agencies are eligible to receive a Quality of Patient Care star rating providing that they have quality data reported on at least 5 out of the 9 quality measures that are included in the calculation.

Home health agencies would continue to have prepublication access to their agency's quality data, which enables each agency to know how it is

performing before public posting of the data on the Compare Web site. Starting in April 2015, HHAs are receiving quarterly preview reports showing their Quality of Patient Care star rating and how it was derived well before public posting, and they have several weeks to review and provide feedback.

The Quality of Patient Care star ratings methodology was developed through a transparent process the included multiple opportunities for stakeholder input, which was subsequently the basis for refinements to the methodology. An initial proposed methodology for calculating the Quality of Patient Care star ratings was posted on the CMS.gov Web site in December 2014. CMS then held two Special Open Door Forums (SODFs) on December 17, 2014 and February 5, 2015 to present the proposed methodology and solicit input. At each SODF, stakeholders provided immediate input, and were invited to submit additional comments via the Quality of Patient Care star ratings Help Desk mailbox: *HHC_Star_Ratings_Helpdesk@cms.hhs.gov.* CMS refined the methodology, based on comments received and additional analysis. The final methodology report is posted on the new star ratings Web page*: http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIHomeHealthStarRatings.html.* A Frequently-Asked-Questions (FAQ) document is also posted on the same Web page, addressing the issues raised in the comments that were received. We tested the Web site language used to present the Quality of Patient Care star ratings with Medicare beneficiaries to assure that it allowed them to accurately understand the significance of the various star ratings.

Additional information regarding the Quality of Patient Care star rating would be posted on the star ratings Web page at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/HHQIHomeHealthStarRatings.html.* Additional communications regarding the Quality of Patient Care star ratings would be announced via regular HH QRP communication channels.

VI. Collection of Information Requirements

While this proposed rule contains information collection requirements, this rule does not add new, nor revise any of the existing information collection requirements, or burden estimate. The information collection requirements discussed in this rule for the OASIS–C1 data item set had been previously approved by the Office of Management and Budget (OMB) on February 6, 2014 and scheduled for implementation on October 1, 2014. The extension of OASIS–C1/ICD–9 version was reapproved under OMB control number 0938–0760 with a current expiration date of March 31, 2018. This version of the OASIS will be discontinued once the OASIS–C1/ICD–10 version is approved and implemented. In addition, to facilitate the reporting of OASIS data as it relates to the implementation of ICD–10 on October 1, 2015, CMS submitted a new request for approval to OMB for the OASIS–C1/ICD–10 version under the Paperwork Reduction Act (PRA) process. CMS is requesting a new OMB control number for the proposed revised OASIS item as announced in the 30-day **Federal Register** notice (*80 FR 15797*). The new information collection request is currently pending OMB approval.

VII. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VIII. Regulatory Impact Analysis

A. Statement of Need

Section 1895(b)(1) of the Act requires the Secretary to establish a HH PPS for all costs of HH services paid under Medicare. In addition, section 1895(b)(3)(A) of the Act requires (1) the computation of a standard prospective payment amount include all costs for HH services covered and paid for on a reasonable cost basis and that such amounts be initially based on the most recent audited cost report data available to the Secretary, and (2) the standardized prospective payment amount be adjusted to account for the effects of case-mix and wage levels among HHAs. Section 1895(b)(3)(B) of the Act addresses the annual update to the standard prospective payment amounts by the HH applicable percentage increase. Section 1895(b)(4) of the Act governs the payment computation. Sections 1895(b)(4)(A)(i) and (b)(4)(A)(ii) of the Act require the standard prospective payment amount to be adjusted for case-mix and geographic differences in wage levels. Section 1895(b)(4)(B) of the Act requires the establishment of appropriate case-mix adjustment factors for significant variation in costs among different units of services. Lastly, section 1895(b)(4)(C) of the Act requires the establishment of wage adjustment factors that reflect the relative level of wages, and wage-related costs applicable to HH services furnished in a geographic area compared to the applicable national average level.

Section 1895(b)(3)(B)(iv) of the Act provides the Secretary with the authority to implement adjustments to the standard prospective payment amount (or amounts) for subsequent years to eliminate the effect of changes in aggregate payments during a previous year or years that was the result of changes in the coding or classification of different units of services that do not reflect real changes in case-mix. Section 1895(b)(5) of the Act provides the Secretary with the option to make changes to the payment amount otherwise paid in the case of outliers because of unusual variations in the type or amount of medically necessary care. Section 1895(b)(3)(B)(v) of the Act requires HHAs to submit data for purposes of measuring health care quality, and links the quality data submission to the annual applicable percentage increase.

Section 421(a) of the MMA requires that HH services furnished in a rural area, for episodes and visits ending on or after April 1, 2010, and before January 1, 2016, receive an increase of 3 percent of the payment amount otherwise made under section 1895 of the Act. Section 210 of the MACRA amended section 421(a) of the MMA to extend the 3 percent increase to the payment amounts for serviced furnished in rural areas for episodes and visits ending before January 1, 2018.

Section 3131(a) of the Affordable Care Act mandates that starting in CY 2014, the Secretary must apply an adjustment to the national, standardized 60-day episode payment rate and other amounts applicable under section 1895(b)(3)(A)(i)(III) of the Act to reflect factors such as changes in the number of visits in an episode, the mix of services in an episode, the level of intensity of services in an episode, the average cost of providing care per episode, and other relevant factors. In addition, section 3131(a) of the Affordable Care Act mandates that rebasing must be phased-in over a 4-year period in equal increments, not to exceed 3.5 percent of the amount (or amounts) as of the date of enactment (2010) under section 1895(b)(3)(A)(i)(III) of the Act, and be fully implemented in CY 2017.

The proposed HHVBP model would apply a payment adjustment based on

an HHA's performance on quality measures to test the effects on quality and costs of care. This proposed HHVBP model was developed based on the experiences we gained from the implementation of the Home Health Pay-for-Performance (HHPP) demonstration as well as the successful implementation of the HVBP program. The model design was also developed from the public comments received on the discussion of a HHVBP model being considered in the CY 2015 HH PPS proposed and final rules. Value-based purchasing programs have also been included in the President's budget for most providers types, including Home Health.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA, March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The net transfer impacts related to the proposed changes in payments under the HH PPS for CY 2016 are estimated to be −$350 million. The savings impacts related to the proposed HHVBP model are estimated at a total projected 5-year gross savings of $380 million assuming a very conservative savings estimate of a 6 percent annual reduction in hospitalizations and a 1.0 percent annual reduction in SNF admissions. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

1. HH PPS

The update set forth in this rule applies to Medicare payments under HH PPS in CY 2016. Accordingly, the following analysis describes the impact in CY 2016 only. We estimate that the net impact of the proposals in this rule is approximately $350 million in decreased payments to HHAs in CY 2016. We applied a wage index budget neutrality factor and a case-mix weights budget neutrality factor to the rates as discussed in section III.C.3 of this proposed rule; therefore, the estimated impact of the 2016 wage index proposed in section III.C.3 of this proposed rule and the recalibration of the case-mix weights for 2016 proposed in section III.B. of this proposed rule is zero. The −$350 million impact reflects the distributional effects of the 2.3 percent HH payment update percentage ($420 million increase), the effects of the third year of the four-year phase-in of the rebasing adjustments to the national, standardized 60-day episode payment amount, the national per-visit payment rates, and the NRS conversion factor for an impact of −2.5 percent ($470 million decrease), and the effects of the −1.72 percent adjustment for nominal case-mix growth ($300 million decrease). The $350 million in decreased payments is reflected in the last column of the first row in Table 24 as a 0.1 percent decrease in expenditures when comparing CY 2015 payments to estimated CY 2016 payments.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any one year. For the purposes of the RFA, we estimate that almost all HHAs are small entities as that term is used in the RFA. Individuals and states are not included in the definition of a small entity. The economic impact assessment is based on estimated Medicare payments (revenues) and HHS's practice in interpreting the RFA is to consider effects economically ''significant'' only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. The majority of HHAs' visits are Medicare-paid visits and therefore the majority of HHAs' revenue consists of Medicare payments. Based on our analysis, we conclude that the policies proposed in this rule will result in an estimated total impact of 3 to 5 percent or more on Medicare revenue for greater than 5 percent of HHAs. Therefore, the Secretary has determined that this HH PPS proposed rule will have a significant economic impact on a substantial number of small entities. Further detail is presented in Table 24, by HHA type and location.

With regards to options for regulatory relief, we note that in the CY 2014 HH PPS final rule we finalized rebasing adjustments to the national, standardized 60-day episode rate, non-routine supplies (NRS) conversion factor, and the national per-visit payment rates for each year, 2014 through 2017 as described in section II.C and III.C.3 of this proposed rule. Since the rebasing adjustments are mandated by section 3131(a) of the Affordable Care Act, we cannot offer HHAs relief from the rebasing adjustments for CY 2016. For the proposed reduction to the national, standardized 60-day episode payment amount of 1.72 percent for CY 2016 described in section III.B.2 of this proposed rule, we believe it is appropriate to reduce the national, standardized 60-day episode payment amount to account for the estimated increase in nominal case-mix in order to move towards more accurate payment for the delivery of home health services where payments better align with the costs of providing such services. In the alternatives considered section below, we note that we considered proposing the full 3.41 percent reduction to the 60-day episode rate in CY 2016 to account for nominal case-mix growth between CY 2012 and CY 2014. However, we instead proposed to reduce the 60-day episode rate by 1.72 percent in CY 2016 and 1.72 percent in CY 2017 to account for estimated nominal case-mix growth between CY 2012 and CY 2014.

Executive Order 13563 specifies, to the extent practicable, agencies should assess the costs of cumulative regulations. However, given potential utilization pattern changes, wage index changes, changes to the market basket forecasts, and unknowns regarding future policy changes, we believe it is neither practicable nor appropriate to forecast the cumulative impact of the rebasing adjustments on Medicare payments to HHAs for future years at this time. Changes to the Medicare program may continue to be made as a result of the Affordable Care Act, or new statutory provisions. Although these changes may not be specific to the HH PPS, the nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes would make it difficult to predict accurately the full scope of the impact upon HHAs for future years

beyond CY 2016. We note that the rebasing adjustments to the national, standardized 60-day episode payment rate and the national per-visit rates are capped at the statutory limit of 3.5 percent of the CY 2010 amounts (as described in the preamble in section II.C. of this proposed rule) for each year, 2014 through 2017. The NRS rebasing adjustment will be −2.82 percent in each year, 2014 through 2017.

In addition, section 1102(b) of the Act requires us to prepare a RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This proposed rule applies to HHAs. Therefore, the Secretary has determined that the HH PPS proposed rule will not have a significant economic impact on the operations of small rural hospitals.

2. Proposed HHVBP Model

To test the impact of upside and downside value-based payment adjustments, beginning in calendar year 2018 and in each succeeding calendar year through calendar year 2022, the proposed model would adjust the final claim payment amount for a home health agency for each episode in a calendar year by an amount equal to the applicable percent. For purposes of this proposed rule, we have limited our analysis of the economic impacts to the value-based incentive payment adjustments. Under the proposed model design, the incentive payment adjustments would be limited to the total payment reductions to home health agencies included in the model and would be no less than the total amount available for value-based incentive payment adjustment. Overall, the distributive impact of this proposed rule is estimated at $380 million for CY 2018–2022. Therefore, this proposed rule is economically significant and thus a major rule under the Congressional Review Act. The proposed model would test the effect on quality and costs of care by applying payment adjustments based on HHAs' performance on quality measures. This proposed rule was developed based on extensive research and experience with value-based purchasing models.

Guidance issued by the Department of Health and Human Services interpreting the Regulatory Flexibility Act considers the effects economically 'significant' only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. Among the over 1900 HHAs in the selected states that would be expected to be included in the proposed HHVBP model, we estimate that the maximum percent payment adjustment resulting from this proposed rule will only be greater than −5 percent for 10 percent of the HHAs included in the model (using the 8 percent maximum payment adjustment threshold applied in CY2021 and CY2022). As a result, only 2 percent of all HHA providers nationally would be significantly impacted, falling well below the RFA threshold. In addition, only HHAs that are impacted with lower payments are those providers that provide the poorest quality which is the main tenet of the model. This falls well below the threshold for economic significance established by HHS for requiring a more detailed impact assessment under the RFA. Thus, we are not preparing an analysis under the RFA because the Secretary has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural HHAs. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we have identified less than 5 percent of HHAs included in the proposed selected states that primarily serve beneficiaries that reside in rural areas (greater than 50 percent of beneficiaries served). We are not preparing an analysis under section 1102(b) of the Act because the Secretary has determined that the proposed HHVBP model would not have a significant impact on the operations of a substantial number of small rural HHAs.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, that threshold is approximately $144 million. This rule will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts state law, or otherwise has Federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

C. Detailed Economic Analysis

1. HH PPS

This proposed rule sets forth updates for CY 2016 to the HH PPS rates contained in the CY 2015 HH PPS final rule (79 FR 66032 through 66118). The impact analysis of this proposed rule presents the estimated expenditure effects of policy changes proposed in this rule. We use the latest data and best analysis available, but we do not make adjustments for future changes in such variables as number of visits or case-mix.

This analysis incorporates the latest estimates of growth in service use and payments under the Medicare HH benefit, based primarily on preliminary Medicare claims data from 2014. We note that certain events may combine to limit the scope or accuracy of our impact analysis, because such an analysis is future-oriented and, thus, susceptible to errors resulting from other changes in the impact time period assessed. Some examples of such possible events are newly-legislated general Medicare program funding changes made by the Congress, or changes specifically related to HHAs. In addition, changes to the Medicare program may continue to be made as a result of the Affordable Care Act, or new statutory provisions. Although these changes may not be specific to the HH PPS, the nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon HHAs.

Table 24 represents how HHA revenues are likely to be affected by the policy changes proposed in this rule. For this analysis, we used an analytic file with linked CY 2014 HH claims data (as of December 31, 2014) for dates of service that ended on or before December 31, 2014, and OASIS assessments. The first column of Table 24 classifies HHAs according to a number of characteristics including provider type, geographic region, and urban and rural locations. The second column shows the number of facilities in the impact analysis. The third column shows the payment effects of proposed CY 2016 wage index. The fourth column shows the payment

effects of the proposed CY 2016 case-mix weights. The fifth column shows the effects the proposed reduction of 1.72 percent to the national, standardized 60-day episode payment amount to account for nominal case-mix growth. The sixth column shows the effects of the rebasing adjustments to the national, standardized 60-day episode payment rate, the national per-visit payment rates, and NRS conversion factor. For CY 2016, the average impact for all HHAs due to the effects of rebasing is an estimated 2.5 percent decrease in payments. The seventh column shows the effects of the CY 2016 home health payment update percentage (the home health market basket update adjusted for multifactor productivity as discussed in section III.C.1. of this proposed rule).

The last column shows the combined effects of all the proposed policies for HH PPS. Overall, it is projected that aggregate payments in CY 2016 will decrease by 1.8 percent. As illustrated in Table 24, the combined effects of all of the changes vary by specific types of providers and by location. We note that some individual HHAs within the same group may experience different impacts on payments than others due to the distributional impact of the CY 2016 wage index, the extent to which HHAs had episodes in case-mix groups where the case-mix weight decreased for CY 2016 relative to CY 2015, the percentage of total HH PPS payments that were subject to the low-utilization payment adjustment (LUPA) or paid as outlier payments, and the degree of Medicare utilization.

TABLE 24—ESTIMATED HOME HEALTH AGENCY IMPACTS BY FACILITY TYPE AND AREA OF THE COUNTRY, CY 2016

	Number of agencies	CY 2016 wage index [1] (percent)	CY 2016 case-mix weights [2] (percent)	60-day episode rate nominal case-mix reduction (percent)	Rebasing [3] (percent)	HH payment update percentage [4] (percent)	Total (percent)
All Agencies	11,432	0.0	0.0	−1.6	−2.5	2.3	−1.8
Facility Type and Control							
Free-Standing/Other Vol/NP	1,054	0.2	−0.2	−1.6	−2.5	2.3	−1.8
Free-Standing/Other Proprietary	8,917	0.0	0.0	−1.6	−2.5	2.3	−1.8
Free-Standing/Other Government	379	−0.2	−0.1	−1.6	−2.5	2.3	−2.1
Facility-Based Vol/NP	741	0.1	−0.2	−1.6	−2.5	2.3	−1.9
Facility-Based Proprietary	116	−0.3	−0.1	−1.6	−2.5	2.3	−2.2
Facility-Based Government	225	−0.2	−0.2	−1.6	−2.5	2.3	−2.2
Subtotal: Freestanding	10,350	0.0	0.0	−1.6	−2.5	2.3	−1.8
Subtotal: Facility-based	1,082	0.0	−0.2	−1.6	−2.5	2.3	−2.0
Subtotal: Vol/NP	1,795	0.1	−0.2	−1.6	−2.5	2.3	−1.9
Subtotal: Proprietary	9,033	0.0	0.0	−1.6	−2.5	2.3	−1.8
Subtotal: Government	604	−0.2	−0.1	−1.6	−2.5	2.3	−2.1
Facility Type and Control: Rural							
Free-Standing/Other Vol/NP	188	−0.8	−0.2	−1.6	−2.4	2.3	−2.7
Free-Standing/Other Proprietary	143	−0.2	−0.1	−1.6	−2.5	2.3	−2.1
Free-Standing/Other Government	448	−0.5	−0.1	−1.6	−2.5	2.3	−2.4
Facility-Based Vol/NP	231	−0.6	−0.2	−1.6	−2.5	2.3	−2.6
Facility-Based Proprietary	25	0.0	−0.2	−1.6	−2.5	2.3	−2.0
Facility-Based Government	136	−0.4	−0.1	−1.6	−2.5	2.3	−2.3
Facility Type and Control: Urban							
Free-Standing/Other Vol/NP	912	0.2	−0.2	−1.6	−2.5	2.3	−1.8
Free-Standing/Other Proprietary	8,604	0.0	0.0	−1.6	−2.5	2.3	−1.8
Free-Standing/Other Government	152	−0.4	−0.1	−1.6	−2.5	2.3	−2.3
Facility-Based Vol/NP	510	0.2	−0.2	−1.6	−2.5	2.3	−1.8
Facility-Based Proprietary	91	−0.3	−0.1	−1.6	−2.4	2.3	−2.1
Facility-Based Government	89	−0.1	−0.2	−1.6	−2.5	2.3	−2.1
Facility Location: Urban or Rural							
Rural	1,074	−0.5	−0.1	−1.6	−2.5	2.3	−2.4
Urban	10,358	0.1	0.0	−1.6	−2.5	2.3	−1.7

TABLE 24—ESTIMATED HOME HEALTH AGENCY IMPACTS BY FACILITY TYPE AND AREA OF THE COUNTRY, CY 2016—Continued

	Number of agencies	CY 2016 wage index [1] (percent)	CY 2016 case-mix weights [2] (percent)	60-day episode rate nominal case-mix reduction (percent)	Rebasing [3] (percent)	HH payment update percentage [4] (percent)	Total (percent)
Facility Location: Region of the Country							
Northeast	837	0.2	−0.1	−1.6	−2.4	2.3	2.3
Midwest	3,044	−0.1	0.0	−1.6	−2.5	2.3	−1.9
South	5,623	−0.1	0.0	−1.6	−2.5	2.3	−1.9
West	1,837	0.4	−0.1	−1.6	−2.5	2.3	−1.5
Other	91	0.4	0.1	−1.6	−2.5	2.3	−1.3
Facility Location: Region of the Country (Census Region)							
New England	296	0.2	−0.1	−1.6	−2.4	2.3	2.3
Mid Atlantic	541	0.3	−0.1	−1.6	−2.5	2.3	−1.6
East North Central	2,407	−0.1	0.0	−1.6	−2.6	2.3	−2.0
West North Central	637	0.0	0.0	−1.6	−2.5	2.3	−1.8
South Atlantic	1,826	0.2	0.1	−1.6	−2.5	2.3	−1.5
East South Central	444	−0.4	0.0	−1.6	−2.6	2.3	−2.3
West South Central	3,353	−0.2	−0.1	−1.6	−2.5	2.3	−2.1
Mountain	602	0.2	0.0	−1.6	−2.5	2.3	−1.6
Pacific	1,235	0.5	−0.2	−1.6	−2.5	2.3	−1.5
Facility Size (Number of 1st Episodes)							
< 100 episodes	3,171	0.1	−0.1	−1.6	−2.5	2.3	2.3
100 to 249	2,861	0.1	0.0	−1.6	−2.5	2.3	−1.7
250 to 499	2,425	0.1	0.0	−1.6	−2.5	2.3	−1.7
500 to 999	1,679	0.0	0.0	−1.6	−2.5	2.3	−1.8
1,000 or More	1,296	0.0	−0.1	−1.6	−2.5	2.3	−1.9

Source: CY 2014 Medicare claims data for episodes ending on or before December 31, 2014 (as of December 31, 2014) for which we had a linked OASIS assessment.

[1] The impact of the proposed CY 2016 home health wage index is offset by the wage index budget neutrality factor described in section III.C.3 of this proposed rule.

[2] The impact of the proposed CY 2016 home health case-mix weights reflects the recalibration of the case-mix weights as outlined in section III.B.1 of this proposed rule offset by the case-mix weights budget neutrality factor described in section III.C.3 of this proposed rule.

[3] The impact of rebasing includes the rebasing adjustments to the national, standardized 60-day episode payment rate (-2.74 percent after the CY 2016 payment rate was adjusted for the wage index and case-mix weight budget neutrality factors and the nominal case-mix reduction), the national per-visit rates (+2.9 percent), and the NRS conversion factor (-2.82 percent). The estimated impact of the NRS conversion factor rebasing adjustment is an overall -0.01 percent decrease in estimated payments to HHAs

[4] The CY 2016 home health payment update percentage reflects the home health market basket update of 2.9 percent, reduced by a 0.6 percentage point multifactor productivity (MFP) adjustment as required under section 1895(b)(3)(B)(vi)(I) of the Act, as described in section III.C.1 of this proposed rule.

Region Key:

New England=Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont;

Middle Atlantic=Pennsylvania, New Jersey, New York; **South Atlantic**=Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia; **East North Central**=Illinois, Indiana, Michigan, Ohio, Wisconsin; **East South Central**=Alabama, Kentucky, Mississippi, Tennessee; **West North Central**=Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota; **West South Central**=Arkansas, Louisiana, Oklahoma, Texas; **Mountain**=Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming; Pacific=Alaska, California, Hawaii, Oregon, Washington;

Other=Guam, Puerto Rico, Virgin Islands

2. Proposed HHVBP Model

Table 25 displays our analysis of the distribution of possible payment adjustments at the 5 percent, 6 percent and 8 percent rates that are being proposed in the model based on 2013–2014 data, providing information on the estimated impact of this proposed rule. We note that this impact analysis is based on the aggregate value of all 9 states identified in section IV.C.2. of this proposed rule by applying the proposed state selection methodology.

Table 26 displays our analysis of the distribution of possible payment adjustments based on 2013–2014 data, providing information on the estimated impact of this proposed rule. We note that this impact analysis is based on the aggregate value of all nine states (identified in section IV.C.2. of this proposed rule) by applying the proposed state selection methodology.

If our methodology is finalized as proposed, all Medicare-certified HHAs that provide services in Massachusetts, Maryland, North Carolina, Florida, Washington, Arizona, Iowa, Nebraska, and Tennessee will be required to compete in this model. However, should the methodology we propose in this rule change as a result of comments received during the rulemaking process, it could result in different states being selected for the model. In such an event, we would apply the final methodology and announce the selected states in the final rule. The estimates presented here may also change accordingly.

Value-based incentive payment adjustments for the estimated 1,900 plus HHAs in the proposed selected states that would compete in the HHVBP model are stratified by the size as defined in section F. For example, Arizona has 31 HHAs that do not provide services to enough beneficiaries to be required to complete CAHPS

surveys and therefore are considered lower-volume under the proposed model. Using 2013–2014 data and the highest payment adjustment of 5 percent (which we propose to be applied in CYs 2021 and 2022), based on 10 process and outcome measures currently available on home health compare, the small HHAs in Arizona would have a mean payment adjustment of positive 0.64 percent. Only 10 percent of home health agencies would be subject to downward payment adjustments of more than −3.3 percent.

The next columns provide the distribution of scores by percentile; we see that the value-based incentive percentage payments for home health agencies in Arizona range from −3.3 percent at the 10th percentile to +5.0 percent at the 90th percentile, while the value-based incentive payment at the 50th percentile is 0.56 percent.

The smaller-volume HHA cohorts table identifies that some consideration will have to be made for MD, WA and TN where there are too few HHAs in the smaller-volume cohort and would be included in the larger-volume cohort without being measured on HHCAHPS.

Table 27 provides the payment adjustment distribution based on proportion of dual-eligible beneficiaries, average case mix (using HCC scores), proportion that reside in rural areas, as well as HHA organizational status. Besides the observation that higher proportion of dually-eligible beneficiaries serviced is related to better performance, the payment adjustment distribution is consistent with respect to these four categories.

The TPS score and the payment methodology at the state and size level were calculated so that each home health agency's payment adjustment was calculated as it would be in the model. Hence, the values of each separate analysis in the tables are representative of what they would be if the baseline year was 2013 and the performance year was 2014.

There were 1,931 HHAs in the nine selected states out of 1,991 HHAs that were found in the HHA data sources which yielded the sufficient measures to be included in the model. It is expected that a certain number of HHAs will not be subject to the payment adjustment because they may be servicing too small of a population to report on an adequate number of measures to calculate a TPS.

TABLE 25—ADJUSTMENT DISTRIBUTION BY PERCENTILE LEVEL OF QUALITY TOTAL PERFORMANCE SCORE AT DIFFERENT MODEL PAYMENT ADJUSTMENT RATES

Payment adjustment distribution	Range	Lowest quality providers				Highest quality providers				
		Lowest 10th pctile*	20th pctile*	30th pctile*	40th pctile*	50th pctile*	60th pctile*	70th pctile*	80th pctile*	Highest 10th pctile*
5% Payment Adjustment for Year 1 and Year 2 of Model	7.69	−2.98	−2.04	−1.23	−0.54	0.15	0.83	1.74	3.08	4.71
6% Payment Adjustment for Year 3 of Model	9.24	−3.60	−2.46	−1.50	−0.66	0.18	1.02	2.10	3.72	5.64
8% Payment Adjustment for Year 4 and Year 5 of Model	12.31	−4.77	−3.27	−1.97	−0.86	0.25	1.33	2.78	4.92	7.54

*pctile = percentile

TABLE 26—HHA COHORT PAYMENT ADJUSTMENT DISTRIBUTIONS BY STATE

[Based on a 5 percent payment adjustment]

State	Number of HHAs	Average payment adjustment (%)	10%	20%	30%	40%	50%	60%	70%	80%	90%
Smaller-Volume HHA Cohort by State											
AZ	31	0.64	−3.33	−2.72	−2.17	−0.82	0.56	1.31	3.36	4.75	5.00
FL	353	0.44	−3.01	−1.76	−1.00	−0.39	0.21	0.94	1.84	3.04	4.38
IA	23	0.17	−3.14	−2.53	−2.01	−1.41	−0.97	0.31	2.74	3.25	5.00
MA	29	0.39	−3.68	−1.75	−0.70	−0.10	0.39	0.79	1.33	2.46	4.68
MD	2	−0.47	−2.71	−2.71	−2.71	−2.71	−0.47	1.78	1.78	1.78	1.78
NC	9	0.72	−2.38	−1.84	−1.41	−1.23	−0.68	0.34	3.67	5.00	5.00
NE	16	−0.51	−2.26	−1.80	−1.64	−1.43	−1.13	−0.44	0.40	0.42	1.46
TN	2	2.48	−0.05	−0.05	−0.05	−0.05	2.48	5.00	5.00	5.00	5.00
WA	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Larger-volume HHA Cohort by State											
AZ	82	0.39	−3.31	−2.75	−2.19	−0.81	0.56	1.31	3.38	4.75	5.00
FL	672	0.41	−3.00	−1.75	−1.60	−0.38	0.19	0.94	1.81	3.06	4.38
IA	129	−0.31	−3.13	−2.31	−2.70	−1.13	−0.56	0.13	0.56	1.19	3.50
MA	101	0.64	−2.88	−2.19	−1.50	−0.38	0.63	1.25	2.06	3.81	4.88
MD	50	0.41	−2.75	−2.06	−2.30	−0.88	0.00	0.81	2.38	2.94	4.13
NC	163	0.65	−2.75	−1.56	−1.30	−0.06	0.38	0.94	1.88	3.06	4.88
NE	48	0.37	−2.63	−2.19	−1.40	−0.56	−0.19	0.50	1.31	2.31	5.00

TABLE 26—HHA COHORT PAYMENT ADJUSTMENT DISTRIBUTIONS BY STATE—Continued

[Based on a 5 percent payment adjustment]

State	Number of HHAs	Average payment adjustment (%)	10%	20%	30%	40%	50%	60%	70%	80%	90%
TN	134	0.39	−2.56	−1.81	−2.00	−0.63	−0.06	0.81	1.44	2.50	4.69
WA	55	0.39	−2.75	−1.63	−2.00	−0.94	−0.19	0.69	1.94	3.31	4.06

TABLE 27—PAYMENT ADJUSTMENT DISTRIBUTIONS BY CHARACTERISTICS

[based on a 5 percent payment adjustment]

Percentage Dually-eligible	Number of HHAs	10%	20%	30%	40%	50%	60%	70%	80%	90%
Low % Dually-eligible	498	−3.21	−2.57	−1.86	−1.29	−0.60	0.12	0.78	2.13	3.97
Medium % Dually-eligible	995	−2.91	−2.10	−1.33	−0.63	0.01	0.67	1.39	2.47	4.12
High % Dually-eligible	498	−2.46	−1.04	−0.24	0.59	1.29	2.34	3.38	4.53	5.00
Acuity (HCC):										
Low Acuity	499	−2.83	−1.76	−0.94	−0.23	0.46	1.16	2.03	3.40	5.00
Middle acuity	993	−3.05	−2.08	−1.24	−0.50	0.19	0.90	1.71	2.81	4.51
High Acuity	499	−3.04	−2.04	−1.29	−0.51	0.26	1.06	2.00	3.16	4.91
% Rural Beneficiaries:										
All non-rural	800	−2.81	−1.51	−0.66	0.08	0.78	1.54	2.64	3.94	5.00
Up to 35% rural	925	−3.12	−2.37	−1.71	−1.01	−0.42	0.32	1.18	2.24	3.97
over 35% rural	250	−2.91	−2.01	−1.17	−0.62	−0.11	0.56	1.32	2.86	4.58
Organizational Type:										
Church	62	−2.92	−2.04	−1.33	−0.46	0.12	0.64	1.30	2.58	4.22
Private Not-For-Profit	194	−2.78	−1.74	−0.97	−0.42	0.27	0.85	1.77	2.89	4.55
Other	93	−2.62	−1.68	−0.95	−0.38	0.36	1.08	1.86	3.09	4.63
Private For-Profit	1538	−3.09	−2.08	−1.27	−0.53	0.24	1.02	1.88	3.02	4.83
Federal	83	−2.44	−1.61	−0.67	0.01	0.53	1.13	1.80	3.09	4.58
State	5	−3.03	−1.11	−.37	−0.01	0.24	0.42	1.66	2.96	3.24
Local	61	−2.30	−1.28	−0.48	0.16	0.98	1.91	2.88	4.11	5.00

D. Alternatives Considered

As described in section III.B.2 of this proposed rule, we considered proposing to reduce the national, standardized 60-day episode payment rate by 3.41 percent in CY 2016 to account for nominal case-mix growth between CY 2012 and CY 2014. If we were to reduce the national, standardized 60-day episode payment rate by 3.41 percent, we estimate that the aggregate impact would be a net decrease of $650 million in payments to HHAs, resulting from a $470 million decrease (−2.5 percent) due to the third year of the Affordable Care Act mandated rebasing adjustments, a $420 million increase (2.3 percent) due to the home health payment update percentage, and a $600 million decrease due to reducing the national, standardized 60-day episode payment rate by 3.41 percent. However, instead of proposing a one-time reduction in the national, standardized 60-day episode payment rate of 3.41 percent in CY 2016 to account for nominal case-mix growth from CY 2012 through CY 2014, we proposed to reduce the national, standardized 60-day episode payment rate by 1.72 percent in CY 2016 and 1.72 percent in CY 2017 to account for nominal case-mix growth from CY 2012 through CY 2014 as outlined in section III.B.2 of this proposed rule.

Section 3131(a) of the Affordable Care Act mandates that starting in CY 2014, the Secretary must apply an adjustment to the national, standardized 60-day episode payment rate and other amounts applicable under section 1895(b)(3)(A)(i)(III) of the Act to reflect factors such as changes in the number of visits in an episode, the mix of services in an episode, the level of intensity of services in an episode, the average cost of providing care per episode, and other relevant factors. In addition, section 3131(a) of the Affordable Care Act mandates that rebasing must be phased-in over a 4-year period in equal increments, not to exceed 3.5 percent of the amount (or amounts) as of the date of enactment (2010) under section 1895(b)(3)(A)(i)(III) of the Act, and be fully implemented in CY 2017. Therefore, in the CY 2014 HH PPS final rule (78 FR 77256), we finalized rebasing adjustments to the national, standardized 60-day episode payment amount, the national per-visit rates and the NRS conversion factor. As we noted in the CY 2014 HH PPS final rule, because section 3131(a) of the Affordable Care Act requires a four year phase-in of rebasing, in equal increments, to start in CY 2014 and be fully implemented in CY 2017, we do not have the discretion to delay, change, or eliminate the rebasing adjustments once we have determined that rebasing is necessary (78 FR 72283).

Section 1895(b)(3)(B) of the Act requires that the standard prospective payment amounts for CY 2016 be increased by a factor equal to the applicable HH market basket update for those HHAs that submit quality data as required by the Secretary. For CY 2016, section 3401(e) of the Affordable Care Act, requires that, in CY 2015 (and in subsequent calendar years), the market basket update under the HHA prospective payment system, as described in section 1895(b)(3)(B) of the Act, be annually adjusted by changes in economy-wide productivity. Beginning in CY 2015, section 1895(b)(3)(B)(vi)(I) of the Act, as amended by section 3401(e) of the Affordable Care Act, requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the HHA PPS for CY 2015 and each subsequent CY. The −0.6 percentage point productivity adjustment to the

proposed CY 2016 home health market basket update (2.9 percent), is discussed in the preamble of this rule and is not discretionary as it is a requirement in section 1895(b)(3)(B)(vi)(I) of the Act (as amended by the Affordable Care Act).

We invite comments on the alternatives discussed in this analysis.

E. Accounting Statement and Table

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4*), in Table 27, we have prepared an accounting statement showing the classification of the transfers and costs associated with the HH PPS provisions of this proposed rule. Table 27 provides our best estimate of the decrease in Medicare payments under the HH PPS as a result of the changes presented in this proposed rule for the HH PPS provisions.

TABLE 27—ACCOUNTING STATEMENT: HH PPS CLASSIFICATION OF ESTIMATED TRANSFERS AND COSTS, FROM THE CYS 2015 TO 2016 *

Category	Transfers
Annualized Monetized Transfers.	−$350 million.
From Whom to Whom?.	Federal Government to HHAs.

* The estimates reflect 2016 dollars.

Table 28 provides our best estimate of the decrease in Medicare payments under the proposed HHVBP model.

TABLE 28—ACCOUNTING STATEMENT: HHVBP MODEL CLASSIFICATION OF ESTIMATED TRANSFERS AND COSTS FOR CY 2018–2022

Category	Transfers
Annualized Monetized Transfers.	−$380 million.
From Whom to Whom?.	Federal Government to Hospitals and SNFs.

F. Conclusion

1. HH PPS

In conclusion, we estimate that the net impact of the HH PPS proposals in this rule is a decrease in Medicare payments to HHAs of $350 million for CY 2016. The $350 million decrease in estimated payments to HHAs for CY 2016 reflects the distributional effects of the 2.3 percent CY 2016 HH payment update percentage ($420 million increase), the proposed reduction to the national, standardized 60-day episode payment rate in CY 2016 of 1.72 percent to account for nominal case-mix growth ($300 million decrease), and the third year of the 4-year phase-in of the rebasing adjustments required by section 3131(a) of the Affordable Care Act of −2.5 percent ($470 million decrease). This analysis, together with the remainder of this preamble, provides an initial Regulatory Flexibility Analysis.

2. Proposed HHVBP Model

In conclusion, we estimate there will be no net impact of the proposals in this rule in Medicare payments to HHAs for CY 2016. However, the overall economic impact of the HHVBP model provision is an estimated $380 million in total savings from a reduction in unnecessary hospitalizations and SNF usage as a result of greater quality improvements in the HH industry over the life of the proposed model.

IX. Federalism Analysis

Executive Order 13132 on Federalism (August 4, 1999) establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that it will not have substantial direct effects on the rights, roles, and responsibilities of states, local or tribal governments.

List of Subjects

42 CFR Part 409

Health facilities, Medicare

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, and Reporting and recordkeeping requirements.

42 CFR Part 484

Health facilities, Health professions, Medicare, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 409—HOSPITAL INSURANCE BENEFITS

■ 1. The authority citation for part 409 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 2. Section 409.43 is amended by revising paragraph (e)(1)(iii) to read as follows:

§ 409.43 Plan of care requirements.

* * * * *

(e) * * *

(1) * * *

(iii) Discharge with goals met and/or no expectation of a return to home health care and the patient returns to home health care during the 60 day episode.

* * * * *

PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 3. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 424.22 [Amended]

■ 4. Section 424.22 is amended by redesignating paragraph (a)(1)(v)(B)(*1*) as paragraph (a)(2) and by removing reserved paragraph (a)(1)(v)(B)(*2*).

PART 484—HOME HEALTH SERVICES

■ 5. The authority citation for part 484 continues to read as follows:

Authority: Secs 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)) unless otherwise indicated.

■ 6. Section 484.205 is amended by revising paragraphs (d) and (e) to read as follows:

§ 484.205 Basis of payment.

* * * * *

(d) *Partial episode payment adjustment.* (1) An HHA receives a national 60-day episode payment of a predetermined rate for home health services unless CMS determines an intervening event, defined as a beneficiary elected transfer or discharge with goals met or no expectation of return to home health and the beneficiary returned to home health during the 60-day episode, warrants a new 60-day episode for purposes of payment. A start of care OASIS assessment and physician certification of the new plan of care are required.

(2) The PEP adjustment will not apply in situations of transfers among HHAs of common ownership. Those situations will be considered services provided under arrangement on behalf of the originating HHA by the receiving HHA with the common ownership interest for the balance of the 60-day episode. The common ownership exception to the transfer PEP adjustment does not apply if the beneficiary moves to a different MSA or Non-MSA during the 60-day

episode before the transfer to the receiving HHA. The transferring HHA in situations of common ownership not only serves as a billing agent, but must also exercise professional responsibility over the arranged-for services in order for services provided under arrangements to be paid.

(3) If the intervening event warrants a new 60-day episode payment and a new physician certification and a new plan of care, the initial HHA receives a partial episode payment adjustment reflecting the length of time the patient remained under its care. A partial episode payment adjustment is determined in accordance with § 484.235.

(e) *Outlier payment.* An HHA receives a national 60-day episode payment of a predetermined rate for a home health service, unless the imputed cost of the 60-day episode exceeds a threshold amount. The outlier payment is defined to be a proportion of the imputed costs beyond the threshold. An outlier payment is a payment in addition to the national 60-day episode payment. The total of all outlier payments is limited to no more than 2.5 percent of total outlays under the HHA PPS. An outlier payment is determined in accordance with § 484.240.

■ 7. Section 484.220 is amended by revising paragraph (a)(3) and adding paragraphs (a)(4) through (6) to read as follows:

§ 484.220 Calculation of the adjusted national prospective 60-day episode payment rate for case-mix and area wage levels.

* * * * *

(a) * * *

(3) For CY 2011, the adjustment is 3.79 percent.

(4) For CY 2012, the adjustment is 3.79 percent.

(5) For CY 2013, the adjustment is 1.32 percent.

(6) For CY 2016 and CY 2017, the adjustment is 1.72 percent in each year.

* * * * *

■ 8. Section 484.225 is revised to read as follows:

§ 484.225 Annual update of the unadjusted national prospective 60-day episode payment rate.

(a) CMS updates the unadjusted national 60-day episode payment rate on a fiscal year basis (as defined in section 1895(b)(1)(B) of the Act).

(b) For 2007 and subsequent calendar years, in accordance with section 1895(b)(3)(B)(v) of the Act, in the case of a home health agency that submits home health quality data, as specified by the Secretary, the unadjusted national prospective 60-day episode rate is equal to the rate for the previous calendar year increased by the applicable home health market basket index amount.

(c) For 2007 and subsequent calendar years, in accordance with section 1895(b)(3)(B)(v) of the Act, in the case of a home health agency that does not submit home health quality data, as specified by the Secretary, the unadjusted national prospective 60-day episode rate is equal to the rate for the previous calendar year increased by the applicable home health market basket index amount minus 2 percentage points. Any reduction of the percentage change will apply only to the calendar year involved and will not be taken into account in computing the prospective payment amount for a subsequent calendar year.

§ 484.230 [Amended]

■ 9. Section 484.230 is amended by removing the last sentence.

■ 10. Section 484.240 is amended by revising paragraphs (b) and (e) and adding paragraph (f) to read as follows:

§ 484.240 Methodology used for the calculation of the outlier payment.

* * * * *

(b) The outlier threshold for each case-mix group is the episode payment amount for that group, or the PEP adjustment amount for the episode, plus a fixed dollar loss amount that is the same for all case-mix groups

* * * * *

(e) The fixed dollar loss amount and the loss sharing proportion are chosen so that the estimated total outlier payment is no more than 2.5 percent of total payment under home health PPS.

(f) The total amount of outlier payments to a specific home health agency for a year may not exceed an amount equal to 10 percent of the total payments to the specific agency under home health PPS for the year.

§ 484.245 [Removed and Reserved]

■ 11. Section 484.245 is removed and reserved.

§ 484.250 [Amended]

■ 12. Section § 484.250(a)(2) is amended by removing the reference ''§ 484.225(i)'' and adding in its place the reference ''§ 484.225(c)''.

■ 13. Subpart F is added to read as follows:

Subpart F—Home Health Value-Based Purchasing (HHVBP) Model Components for Medicare-Certified Home Health Agencies Within State Boundaries

Sec.

Subpart F—Home Health Value-Based Purchasing (HHVBP) Model Components for Medicare-Certified Home Health Agencies Within State Boundaries

§ 484.300 Basis and scope of subpart.

This subpart is established under section 1115A(a)(1) of the Act (42 U.S.C. 1315a), which authorizes the Secretary to test innovative payment and service delivery models to improve coordination, quality, and efficiency of health care services furnished under Title XVIII.

§ 484.305 Definitions.

As used in this subpart—

Applicable measure means a measure for which the Medicare-certified HHA has provided 20 home health episodes of care per year.

Applicable percent means a maximum upward or downward adjustment for a given performance year, not to exceed the following:

(1) For CY 2018 and 2019, 5 percent.

(2) For CY 2020, 6 percent.

(3) For CY 2021 and 2022, 8 percent.

Benchmark refers to the mean of the top decile of Medicare-certified HHA performance on the specified quality measure during the baseline period, calculated separately for the larger-volume and smaller-volume cohorts within each state.

Home health prospective payment system (HH PPS) refers to the basis of payment for home health agencies as set forth in §§ 484.200 through 484.245.

Larger-volume cohort means the group of Medicare-certified home health agencies within the boundaries of selected states that are participating in HHCAHPs in accordance with § 484.250.

Linear exchange function is the means to translate a Medicare-certified HHA's Total Performance Score into a value-based payment adjustment percentage.

Medicare-certified home health agency means an agency:

(1) That has a current Medicare certification; and,

(2) Is being reimbursed by CMS for home health care delivered within any of the states specified in accordance with CMS's selection methodology.

New measures means those measures to be reported by Medicare-certified HHAs under the HHVBP model that are not otherwise reported by Medicare-certified HHAs to CMS and were identified to fill gaps to cover National Quality Strategy Domains not completely covered by existing measures in the home health setting.

Payment adjustment means the amount by which a Medicare-certified HHA's final claim payment amount under the HH PPS is changed in accordance with the methodology described in § 484.325.

Performance period means the time period during which data are collected for the purpose of calculating a Medicare-certified HHA's performance on measures.

Selected state(s) means those nine states that were randomly selected to compete/participate in the HHVBP model via a computer algorithm designed for random selection.

Smaller-volume cohort means the group of Medicare-certified home health agencies within the boundaries of selected states that are exempt from participation in HHCAHPs in accordance with § 484.250.

Starter set means the quality measures selected for the first year of this model.

Total Performance Score means the numeric score ranging from 0 to 100 awarded to each Medicare-certified HHA based on its performance under the HHVBP model.

Value-based purchasing means measuring, reporting, and rewarding excellence in health care delivery that takes into consideration quality, efficiency, and alignment of incentives. Effective health care services and high performing health care providers may be rewarded with improved reputations through public reporting, enhanced payments through differential reimbursements, and increased market share through purchaser, payer, and/or consumer selection.

§ 484.310 Applicability of the Home Health Value-Based Purchasing (HHVBP) model.

(a) *General rule.* The HHVBP model applies to all Medicare-certified home health agencies (HHAs) in selected states.

(b) Nine states are selected in accordance with CMS's selection methodology. All Medicare-certified HHAs that provide services in Massachusetts, Maryland, North Carolina, Florida, Washington, Arizona, Iowa, Nebraska, and Tennessee will be required to compete in this model.

§ 484.315 Data reporting for measures and evaluation under the Home Health Value-Based Purchasing (HHVBP) model.

(a) Medicare-certified home health agencies will be evaluated using a starter set of quality measures.

(b) Medicare-certified home health agencies in selected states will be required to report information on New Measures, as determined appropriate by the Secretary, to CMS in the form, manner, and at a time specified by the Secretary.

(c) Medicare-certified home health agencies in selected states will be required to collect and report such information as the Secretary determines is necessary for purposes of monitoring and evaluating the HHVBP model under section 1115A(b)(4) of the Act (42 U.S.C. 1315a).

§ 484.320 Calculation of the Total Performance Score.

A Medicare-certified home health agency's Total Performance Score for a model year is calculated as follows:

(a) CMS will award points to the Medicare-certified home health agency for performance on each of the applicable measures in the starter set, other than New Measures.

(b) CMS will award points to the Medicare-certified home health agency for reporting on each of the New Measures in the starter set, worth up to ten percent of the Total Performance Score.

(c) CMS will sum all points awarded for each applicable measure in the starter set, weighted equally at the individual measure level, to calculate a value worth up to 90 percent of the Total Performance Score.

(d) The sum of the points awarded to a Medicare-certified HHA for each applicable measure in the starter set and the points awarded to a Medicare-certified HHA for reporting data on each New Measure is the Medicare-certified HHA's Total Performance Score for the calendar year.

§ 484.325 Payments for home health services under Home Health Value-Based Purchasing (HHVBP) model.

CMS will determine a payment adjustment up to the maximum applicable percentage, upward or downward, under the HHVBP model for each Medicare-certified home health agency based on the agency's Total Performance Score using a linear exchange function. Payment adjustments made under the HHVBP model will be calculated as a percentage of otherwise-applicable payments for home health services provided under section 1895 of the Act (42 U.S.C. 1395fff).

§ 484.330 Process for determining and applying the payment adjustment under the Home Health Value-Based Purchasing (HHVBP) model.

(a) *General.* Medicare-certified home health agencies will be ranked within the larger-volume and smaller-volume cohorts in selected states based on the performance standards that apply to the HHVBP model for the baseline year, and CMS will make value-based payment adjustments to the Medicare-certified HHAs as specified in this section.

(b) *Calculation of the value-based payment adjustment amount.* The value-based payment adjustment amount is calculated by multiplying the Home Health Prospective Payment final claim payment amount as calculated in accordance with § 484.205 by the payment adjustment percentage.

(c) *Calculation of the payment adjustment percentage.* The payment adjustment percentage is calculated as the product of: The applicable percent as defined in § 484.320, the Medicare-certified HHA's Total Performance Score divided by 100, and the linear exchange function slope.

Dated: June 25, 2015.

Andrew M. Slavitt,

Administrator, Centers for Medicare & Medicaid Services.

Dated: June 26, 2015.

Sylvia M. Burwell,

Secretary.

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Part III

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 191, 192, et al.
Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 191, 192, 195, and 199

[Docket No. PHMSA–2013–0163]

RIN 2137–AE94

Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA is proposing amendments to the pipeline safety regulations to address requirements of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act), and to update and clarify certain regulatory requirements. Among other provisions, PHMSA is proposing to add a specific time frame for telephonic or electronic notifications of accidents and incidents and add provisions for cost recovery for design reviews of certain new projects, for the renewal of expiring special permits, and for submitters of information to request PHMSA keep the information confidential. We are also proposing changes to the operator qualification (OQ) requirements and drug and alcohol testing requirements and incorporating consensus standards by reference for in-line inspection (ILI) and Stress Corrosion Cracking Direct Assessment (SCCDA).

DATES: Submit comments by September 8, 2015.

ADDRESSES: Comments should reference Docket No. PHMSA–2013–0163 and may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This Web site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation (DOT), Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Note: Comments are posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (70 FR 19477), or visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Tewabe Asebe by telephone at 202–366–5523 or by email at *Tewabe.Asebe@dot.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Purpose of the Regulatory Action (Statement of Need)

The purpose of this proposed rulemaking action is to strengthen the Federal pipeline safety regulations, and to address sections 9 and 13 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act). The proposal associated with section 9 would limit the accident and incident reporting requirements to within one hour. PHMSA expects that quicker accident and incident reporting would lead to a safety benefit to the public, the environment, and limit property damage. The proposal associated with section 13 would allow PHMSA to recover its costs for design review work PHMSA would conduct on behalf of the operators, which would allow PHMSA to use its limited resources in protecting the public safety. PHMSA is also proposing to expand the existing Operator Qualification (OQ) scope to cover new construction and certain other currently uncovered tasks, require operators use trained and qualified individuals when performing new construction work, and add program effectiveness requirements for operators to gauge the effectiveness of the OQ programs. PHMSA believes that requiring operators to use trained and qualified individuals would decrease human errors. PHMSA is also proposing to provide a renewal procedure for expiring special permits and proposing other minor and administrative changes. The proposed changes are listed in detail below:

- Specifying an operator's accident and incident reporting time to not later than one hour after confirmed discovery and requiring revision or confirmation of initial notification within 48 hours of the confirmed discovery of the accident or incident;
- Setting up a cost recovery fee structure for design review of new gas and hazardous liquid pipelines with either overall design and construction costs totaling at least $2,500,000,000 or that contain new and novel technologies;
- Expanding the existing Operator Qualification (OQ) scope to cover new construction and previously excluded operation and maintenance tasks, addressing the National Transportation Safety Board's (NTSB) recommendation to clarify OQ requirements for control rooms, and extending the requirements to operators of Type A gathering lines in Class 2 locations and Type B onshore gas gathering lines;
- Providing a renewal procedure for expiring special permits;
- Excluding farm taps from the requirements of the Distribution Integrity Management Program (DIMP) requirements while proposing safety requirements for the farm taps;
- Requiring pipeline operators to report to PHMSA permanent reversal of flow that lasts more than 30 days or a change in product (*e.g.,* from liquid to gas, from crude oil to highly volatile liquids (HVL));
- Providing methods for assessment tool selection by incorporating consensus standards by reference in part 195 for stress corrosion cracking direct assessment (SCCDA) that were not developed when the Integrity Management (IM) regulations were issued;
- Requiring electronic reporting of drug and alcohol testing results in part 199;
- Modifying the criteria used to make decisions about conducting post-accident drug and alcohol tests and requiring operators to keep for at least three years a record of the reason why post-accident drug and alcohol test was not conducted;
- Adding a procedure to request PHMSA keep submitted information confidential;
- Adding reference to Appendix B of API 1104 related to in-service welding in parts 192 and 195; and
- Aaking minor editorial corrections.

B. Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

Several of the proposed changes would address sections 9 and 13 of the 2011 Act, which was signed into law on January 3, 2012. (Pub. L. 112–90). Section 9 of the 2011 Act requires PHMSA to specify a time limit for telephonic or electronic reporting of pipeline accidents and incidents. Section 13 of the 2011 Act (codified at 49 U.S.C. 60117) allows PHMSA to prescribe a fee structure and assessment methodology to recover costs associated with design reviews.

C. Costs and Benefits

PHMSA has estimated annual compliance costs at $3.1 million; less savings to be realized from the removal of farm taps from the DIMP requirements. Annual safety benefits cannot be quantified as readily due to data limitations, but are expected to be $1.6 million per year in avoided incident costs, plus numerous intangible benefits from the improved clarity and consistency of regulations and required post-incident drug and alcohol test decision justification. Although the quantified benefits do not exceed the estimated costs, PHMSA believes that these non-quantified benefits are significant enough to outweigh the costs of compliance. PHMSA believes that updating regulations, providing clarification, and providing methods for assessment tools by incorporating consensus standards all help to improve compliance with pipeline safety regulations and to reduce the likelihood of a serious pipeline incident. In particular, proposed operator qualification provisions ensure that pipeline construction personnel and operations and maintenance personnel have the appropriate skills for the functions they are performing. This would reduce the likelihood of human error-related incidents. At an annual compliance cost of $3.1 million, the proposed changes would be cost effective if they prevented a single fatal incident over a three-year period.

I. Accident and Incident Notification

Summary

This proposed rulemaking action would amend the Federal pipeline safety regulations to require operators to provide telephonic or electronic notification of an accident or incident at the earliest practicable moment, including the amount of product loss, following confirmed discovery.

Background

PHMSA requires pipeline owners and operators to notify the National Response Center (NRC) by telephone or electronically at the earliest practicable moment following discovery of an incident or accident (§§ 191.5 and 195.52). In an advisory bulletin published on September 6, 2002; 67 FR 57060, PHMSA advised owners and operators of gas and hazardous liquids pipeline systems and liquefied natural gas (LNG) facilities that reporting at the earliest practicable opportunity usually means one to two hours after discovery of the incident.

Justification for the Recommended Change

On January 3, 2012, President Obama signed into law the 2011 Act. Section 9 of the 2011 Act directs PHMSA to require pipeline operators to make incident/accident telephonic notifications at the earliest practicable moment following confirmed discovery of an accident or incident and not later than 1 hour following the time of such confirmed discovery.

PHMSA proposes to revise the pipeline safety regulations to require operators to provide telephonic or electronic notification of an accident or incident at the earliest practicable moment, including the amount of product loss, following the confirmed discovery of an accident or incident, but not later than one hour following the time of such confirmed discovery. Further, we are proposing to require operators to revise or confirm that initial notification within 48 hours of confirmed discovery of the accident or incident. Prompt reporting of a pipeline incident to the NRC is crucial to Federal investigators' ability to investigate and resolve pipeline safety concerns. Once a report is made, investigators must decide at the outset whether a full Federal investigation is necessary. Failure to report promptly hinders the decision making process and could jeopardize the outcome of any subsequent investigation and threaten public safety. Delays in reporting caused by an operator waiting until the operator definitely determines an event meets the reporting criteria would defeat a fundamental purpose of the 2011 Act, which is to give PHMSA and other agencies the earliest opportunity to assess whether an immediate response to a pipeline incident is needed.

As demonstrated by PHMSA's past enforcement actions, ''discovery'' has been evaluated on a case-by-case basis considering the totality of the circumstances. Because the statute requires reporting after ''confirmed discovery,'' PHMSA proposes to define the term in §§ 191.3 and 195.2 as ''when there is sufficient information to determine that a reportable event has occurred even if an evaluation has not been completed.'' After a more thorough investigation, the operator can submit more detailed information in the written incident report. This policy of erring on the side of caution ensures that delays in reporting incidents would be avoided. PHMSA seeks comment on the proposed definition of ''confirmed discovery'' and how it would affect operators in their evaluation of an incident or accident. In particular, PHMSA is interested in alternative definitions of ''confirmed discovery'' (*e.g.,* if an operator were to receive two different notifications that validate each other) and the advantages the alternative definitions have over the proposed definition.

II. Cost Recovery for Design Reviews

Summary

This proposed rulemaking action would amend the Federal pipeline safety regulations to prescribe a fee structure and assessment methodology for recovering costs associated with design reviews of new gas and hazardous liquid pipelines with either overall design and construction costs totaling at least $2,500,000,000 or that contain new and novel technologies.

Background

Section 13 of the 2011 Act allows PHMSA to prescribe a fee structure and assessment methodology to recover costs associated with any project with design review and construction costs totaling at least $2,500,000,000 and for new or novel technologies or design, as determined by the Secretary.

PHMSA issued guidance in January 2013, on its Web site to clarify the meaning of the term ''new or novel technologies or design'' as meaning, ''any products, designs, materials, testing, construction, inspection, or operational procedures that are not addressed in title 49 Code of Federal Regulations (CFR) parts 192, 193, or 195 due to technology or design advances and innovation.'' PHMSA developed this definition to include any technologies that are developed or have existed and are being adopted widely due to developments other than technology or innovation.

Justification for the Recommended Changes

PHMSA conducts facility design safety reviews in connection with

proposals to construct, expand, or operate gas or hazardous liquid pipelines or liquefied natural gas pipeline facilities. Reviews include design, construction, and operational inspections and oversight. These reviews divert a significant amount of PHMSA's limited resources from the agency's pipeline safety enforcement responsibilities.

While PHMSA's pipeline account is funded entirely by user fees on the pipeline industry, PHMSA does not currently recover costs incurred specifically while conducting these reviews for pipeline operators. Section 13 of the 2011 Act permits PHMSA to require the entity or individual proposing the project to pay the costs incurred by PHMSA relating to such reviews.

Historically, PHMSA's pipeline safety costs associated with new pipeline design and construction reviews and inspections have been paid for through Pipeline User Fee collections. As major pipeline construction projects increase, PHMSA's inspection hours and costs have increased on major projects, diverting resources away from other Agency priorities. In this NPRM PHMSA is taking the first step in proposing to exercise the cost recovery authority described in Section 13(a) of the 2011 Act by prescribing a fee structure and assessment methodology that is based on the costs of providing these reviews that are initiated by the pipeline operator. However, in terms of budgetary scoring, Section 13 allows for the collection of the fee as a mandatory receipt. However, the Administration would like to use these fees as an offset for discretionary spending, and as such, PHMSA has proposed that appropriations language in the last several Budgets to make this a discretionary offsetting fee. Neither the Consolidated Appropriations Act of 2014 nor the Consolidated and Further Continuing Appropriations Act of 2015 enacted language that would make this a discretionary offsetting fee. Hence, PHMSA is proposing this portion of the ANPRM under the assumption that Congress will enact a revision to make this a discretionary offsetting fee before PHMSA would issue a final rule to implement the fee.

PHMSA believes that a review of a large project or new technology that has safety benefits in quality control would drain the agency's resources without any cost recovery mechanism. PHMSA has developed a sample master cost recovery agreement that would be used between PHMSA and the applicant for a project proposal meeting the criteria of proposed 49 CFR part 190, subpart D requirements. The sample master cost recovery agreement will be posted on PHMSA's Web site and in Docket No. PHMSA–2013–0163. A master cost recovery agreement would include at a minimum:

(1) Itemized list of direct costs to be recovered by PHMSA;

(2) Scope of work for conducting the facility design safety review and an estimated total cost;

(3) Description of the method of periodic billing, payment, and auditing of cost recovery fees;

(4) Minimum account balance which the applicant must maintain with PHMSA at all times;

(5) Provisions for reconciling differences between total amount billed and the final cost of the design review, including provisions for returning any excess payments to the applicant at the conclusion of the project;

(6) A principal point of contact for both PHMSA and the applicant;

(7) Provisions for terminating the agreement; and

(8) A project reimbursement cost schedule based upon the project timing and scope.

III. Operator Qualification Requirements

Summary

This proposed rulemaking action would amend the Federal pipeline safety regulations in 49 CFR parts 192 and 195 relative to operator qualification requirements. The amendments would include: Expanding the scope of OQ requirements to cover new construction and certain previously excluded operation and maintenance tasks, extending the OQ requirements to operators of Type A gas gathering lines in Class 2 locations, Type B onshore gas gathering lines, and regulated rural hazardous liquid gathering lines, requiring a program effectiveness review, and adding new recordkeeping requirements. The proposed changes would enhance the OQ requirements by clarifying existing requirements and addressing NTSB recommendation to extend operator qualification requirements to control center staff involved in pipeline operational decisions (Safety Recommendation P–12–8).

Background

Sections 101 and 201 of the Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100–561; October 31, 1988) authorize PHMSA to require all individuals responsible for the operation and maintenance of pipeline facilities to be tested for qualifications and to be certified to perform such functions. PHMSA published a final rule on August 27, 1999; 64 FR 46853 for the qualification of pipeline personnel.

1. Public Meeting

Over 650 individuals from various stakeholder groups attended PHMSA's public meeting on OQ History and Milestones in January 2003 in San Antonio, Texas to discuss gaps between the OQ rule and actual operations in the field.

2. ASME Standard

ASME standard, ASME B31Q (''Pipeline Personnel Qualification'') was revised in October 2010, to address many OQ issues identified at the public meeting. An OQ team reviewed the standard in detail and determined that while the standard provided detailed guidance in most areas, PHMSA should instead amend the current regulation to address areas that had not been addressed in the revised ASME standard.[1]

3. NTSB Recommendation

The NTSB issued the following safety recommendation to PHMSA on July 25, 2012, (P–12–8):

> Extend operator qualification requirements in Title 49 Code of Federal Regulations Part 195 Subpart G to all hazardous liquid and gas transmission control center staff involved in pipeline operational decisions.

Although our existing Control Room Frequently Asked Questions (B.01, B.03 & B.05) (*http://primis.phmsa.dot.gov/crm/faqs.htm*) all touch on the topic of supervisors or others intervening in control room operations, there are no specific OQ program requirements. Therefore, PHMSA is proposing explicit control room team training requirement for all individuals who would be reasonably expected to interface with controllers during normal, abnormal or emergency situations in §§ 192.631(h) and 195.446(h).

4. Gathering Lines

PHMSA issued a final rule on March 15, 2006; 71 FR 13289 that revises the methodology used to identify regulated onshore gas gathering lines and implemented a tiered compliance approach to address potential risk. In a final rule issued on June 3, 2008; 73 FR 31634, PHMSA defined the criteria to identify a regulated onshore hazardous liquid gathering line. In both instances, PHMSA allowed a modified approach for recordkeeping, requiring only a description of the processes used to

[1] The OQ team consists of members from PHMSA and several State pipeline safety agencies.

qualify personnel instead of a description of qualification methods for each individual who is allowed to perform tasks on Type A gas gathering lines in Class 2 locations or regulated hazardous liquids gathering lines in rural locations. PHMSA has determined that this approach fails to ensure that individuals possess the requisite knowledge, skills, and abilities to perform the actual work. Additionally, in the March 2006 rulemaking, PHMSA subjected operators of Type B onshore gas gathering lines to a very limited set of required compliance activities, excluding and OQ requirements. Having a properly trained and qualified workforce is necessary and paramount to perform work on any category of pipeline and to solidify a consistent application of OQ across all sectors of pipeline transportation.

5. Control Room Team Training

NTSB issued the following safety recommendation to PHMSA on July 25, 2012, (P–12–7):

> Develop requirements for team training of control center staff involved in pipeline operations similar to those used in other transportation modes.

Although not an explicit requirement, a number of the sections in the Control Room Management regulations, along with the inspection guidance and related Frequently Asked Questions, already touch on the concept of team training for control room personnel and others who would likely work together as a team during normal, abnormal, and emergency situations. PHMSA believes a requirement for control room team training would better prepare all individuals who would be reasonably expected to interface with controllers (control room personnel) during normal, abnormal or emergency situations. While the CRM regulations call out certain specific individuals such as controllers, supervisors, and field personnel, understanding of the requirements of CRM and appropriate training is essential for other individuals that interact with controllers, particularly those that may affect the ability of a controller to safely monitor and control the pipeline during normal, abnormal, and emergency situations. Other individuals to which team training might pertain likely vary by operator and control room depending on specific procedures and roles in the control room, but they could include individuals such as technical advisors, engineers, leak detection analysts, and on-call support. These individuals are typically already trained in their specific job function and have some awareness of the roles and responsibilities of controllers. In many cases, they are also included in discussions or meetings that involve control room personnel. However, these individuals may not always get together to be trained on how to work together as a team. Therefore, as recommended by NTSB, PHMSA is proposing to require control room team training in §§ 192.631(h) and 195.446(h).

Justification for the Proposed Changes

The industry standard, ASME B31Q, Pipeline Personnel Qualification, defines covered task as ''those tasks that can affect the safety or integrity of the pipeline''.

The current rule is not prescriptive and the resulting flexibility built into the performance-based rule makes it difficult to measure operator's compliance with the rule. Under the current regulation, a covered task is an activity, defined by the operator that meets the 4-part test:

(1) Is performed on a pipeline facility;

(2) Is an operations or maintenance task;

(3) Is performed as a requirement of this part; and

(4) Affects the operation or integrity of the pipeline.

Many of the pipeline safety regulations are performance based, rather than prescriptive requirements. The OQ regulations require operators to identify covered tasks for all of their operations and maintenance activities that are required by parts 192 and 195, regardless of whether such activities arise from performance-based regulations or from more prescriptive requirements. It's the operator's responsibility to identify their unique and specific tasks and terminology in both their operations and maintenance documentation, as well as ensure these tasks are covered tasks in the Operator Qualification Program.

Many O&M tasks (part 2 of the 4-part test) that an operator performs are not specifically called out in the regulation (part 3 of the 4-part test).

Performance based tasks may include activities, such as those involved in making repairs (while repairs are called out as a requirement of the regulations, specific terminology such as mud plugging, pipefitting, installing Clockspring, etc. associated with making repairs is not). Making pipeline repairs in a safe manner involves myriad tasks that may vary from one job to another and from one operator to another. While the current performance based regulations provide flexibility for each operator to identify those particular repair tasks, the proposed rule to define covered tasks is clearer and helps to eliminate confusion over whether performance based tasks are ''performed as a requirement of this part.'' Most of the proposed OQ changes are not significant because the existing sections are renumbered or combined with other sections. However, this proposed rule includes two new requirements: (1) Includes OQ requirements for new constructions by changing the Scope; and (2) adds a new program effectiveness requirement to ensure that operators complete a review of the effectiveness of their OQ program. PHMSA's proposed changes to the OQ rule at parts 192 and 195 are as follows:

1. Change the scope of the OQ rule in §§ 192.801 and 195.501 to revise the method of determining a ''covered task.'' Instead of determining a covered task by the ''4-part test,'' PHMSA is proposing to define a covered task as any maintenance, construction or emergency response task the operator identifies as affecting the safety or integrity of the pipeline facility. The ''4-part test'' omitted important tasks, such as all construction tasks on new pipelines and certain operation and maintenance tasks.

2. Update the ''General'' sections of §§ 192.809 and 195.509 to remove the implementation dates that no longer affect the implementation requirements for operators. In addition, after they are updated §§ 192.809 and 195.509 are renumbered as §§ 192.805 and 195.505.

3. Change the requirements in §§ 192.805 and 195.505 by adding new definitions, deleting an obsolete date for training requirements and clarify the need for training individuals performing covered tasks. Additionally, we are adding a new requirement for evaluators of individuals performing covered tasks, including training requirements for new construction tasks as the current OQ requirements do not include new construction tasks.

4. Add a ''Program Effectiveness'' requirement at §§ 192.807 and 195.507 to ensure that operators complete a review of the effectiveness of their OQ program. The review would include ensuring that procedures that were amended have been captured in the necessary portions of the OQ program.

5. Add record requirements in §§ 192.809 and 195.509 that are normally reviewed during the inspection of OQ programs and are necessary to provide a thorough overview of an OQ program. The additional records would include records that document evaluators' performance and program effectiveness.

6. Add a new paragraph (b)(5) to §§ 192.631 and 195.446 to require each

operator to define the roles and responsibilities and qualifications of others who have the authority to direct or supersede the specific technical actions of controllers. PHMSA believes this change would reinforce that operators need to declare the roles, responsibilities, and qualifications of all others who, at times, could intervene in control room operations.

7. Add a new subparagraph in the ''Qualification Program'' sections as §§ 192.805(b)(7) and 195.505(b)(7) proposing requirements addressing management of change and the communication of those changes. This proposed section would ensure that weaknesses of a program are found and corrections are made with notification to those affected, and

8. Modify §§ 192.9 and 195.11 to require operators to establish and administer an OQ program covering personnel who perform work on Type A gas gathering lines in Class 2 locations, regulated Type B onshore gas gathering lines and regulated hazardous liquids gathering lines in rural locations.

IV. Special Permit Renewal

Summary

This proposed rulemaking action would amend § 190.341 of the Federal pipeline safety regulations to add procedures for renewing a special permit.

Background and Justification

As defined in § 190.341(a), a special permit is an order by which PHMSA waives compliance with one or more of the pipeline safety regulations if it determines that granting the permit would ''not be inconsistent with pipeline safety.'' Special permits are authorized by statute in 49 U.S.C. 60118(c), and the application process is set forth in § 190.341. PHMSA performs extensive technical analysis on special permit applications and typically conditions a grant of a special permit on the performance of alternative measures that would provide an equal or greater level of safety. PHMSA is committed to public involvement and transparency in special permit proceedings and publishes notice of every special permit application received in the **Federal Register** for comment.

In the past, PHMSA has included an expiration date for certain special permits depending on the nature of the permit. By doing so, PHMSA is able to ensure that these special permits will be reviewed again no later than the expiration date. This process ensures that a special permit will not continue to be used if it is no longer in the best interest of public safety.

PHMSA is proposing to add a renewal procedure to the pipeline safety regulations for those Special Permits that have expiration dates. This special permit renewal procedure will ensure the permit conditions are still valid for the pipeline and if changes and updates are required to maintain safety and the environment.

V. Farm Taps

Summary

This proposed rulemaking action would amend the Federal pipeline safety regulations in 49 CFR part 192 to add a new § 192.740 to cover regulators and overpressure protection equipment for an individual service line that originates from a transmission, gathering, or production pipeline (*i.e.,* a farm tap), and to revise § 192.1003 to exclude farm taps from the requirements of the Distribution Integrity Management Program (DIMP).

Background

On October 29, 2012, PHMSA received a request from the Interstate Natural Gas Association of America (INGAA), asking if PHMSA covers the farm tap issue on the upcoming miscellaneous issue rulemaking. In addition, PHMSA received a February 15, 2013, written letter from the National Association of Pipeline Safety Representatives (NAPSR) requesting an exemption of farm taps from the DIMP requirements as follows:

The letter requested PHMSA to take the following actions relative to the applicability of DIMP to ''Farm Taps'':

1. Amend the applicable part 192 sections to exempt those pipelines commonly referred to as ''farm taps'' (a term originating from industry jargon) from the requirements of Subpart P, Gas Distribution Pipeline Integrity Management; and

2. Amend part 192 to include periodic inspection requirements in a new section covering ''pressure regulating and over-pressure-relief equipment'' on a pipeline that originates from a transmission, gathering, or production pipeline that serves a service line.

In support of the above, NAPSR offered the following:

- Farm taps are distribution service lines per § 192.3 ;
- During the DIMP rulemaking, little consideration was given to the potential impact or appropriateness of subjecting farm taps to DIMP;
- The risk to the public from a failure on a farm tap is generally lower in Class 1 and Class 2 locations in which farm taps are typically located and operated;
- Currently the regulator and relief equipment with farm taps are not subject to over pressurization protection requirements associated with pressure limiting stations.

This proposal originated with the NAPSR DIMP Implementation Task Force and was subsequently approved by the NAPSR Board in January 2013.

As NAPSR described it, ''farm tap'' is industry jargon for a pipeline that branches from a transmission, gathering, or production pipeline to deliver gas to a farmer or other landowner. Historically, PHMSA and its predecessor agencies have held that farm taps are service lines—a subset of distribution pipelines. Rulemaking proceedings and responses to requests for interpretation have recognized this dating as far back as 1971.

On December 4, 2009, PHMSA published the DIMP final rule (74 FR 63906) for gas distribution pipelines. That rule applies IM requirements to all distribution pipelines. Unlike the IM requirements for hazardous liquid or gas transmission pipelines, the DIMP requirements do not focus on a subset of pipelines in ''high consequence areas,'' but instead apply to all distribution pipelines, including farm taps.

Justification for the Recommended Changes

Farm taps are mostly located in less-populated areas (Class 1 and 2 locations). The risk to the public from farm taps is generally low, but the risk is dependent upon the service line in which the farm tap is employed, the environment in which it operates, and the consequence of an overpressurization event. DIMP is written to identify needed risk control practices for threats associated with distribution systems, whereas threats to typical farm taps are limited, and most are already addressed within part 192. Therefore, in response to the INGAA and NAPSR requests, PHMSA is proposing to amend part 192 to exempt farm taps from the requirements of part 192, subpart P—Gas Distribution Pipeline Integrity Management. However, to better protect customers served by these lines, PHMSA is proposing to amend part 192, subpart M—Maintenance by adding a new section that prescribes inspection activities under the existing States and Federal pipeline safety inspection programs for pressure regulators and overpressurization protection equipment on service lines that originate from transmission, gathering, or production pipelines. Currently, Federal pipeline safety requirements do

not include overpressurization protection for farm taps. Therefore, this requirement would include inspection of farm-tap pressure regulating/limiting device, relief device, and automatic shutoff device every 3-years to make sure these safety equipment are in good working conditions.

VI. Reversal of Flow or Change in Product

Summary

PHMSA published a final rule on November 26, 2010 (75 FR 72878) that established and required participation in the National Registry of Pipeline and LNG Operators. The final rule amended the Federal pipeline safety regulations to require operators to notify PHMSA electronically of the occurrence of certain events no later than 60 days before the event occurs.

In this notice of proposed rulemaking (NPRM), PHMSA proposes to expand the list of events in §§ 191.22 and 195.64 that require electronic notification to include the reversal of flow of product or change in product in a mainline pipeline. This notification is not required for pipeline systems already designed for bi-directional flow, or when the reversal is not expected to last for 30 days or less. The proposed rule would require operators to notify PHMSA electronically no later than 60 days before there is a reversal of the flow of product through a pipeline and also when there is a change in the product flowing through a pipeline. Examples include, but may not be limited to, changing a transported product from liquid to gas, from crude oil to HVL, and vice versa. In addition, a modification is proposed to §§ 192.14 and 195.5 to reflect the 60-day notification and requiring operators to notify PHMSA when over 10 miles of pipeline is replaced because the replacement would be a major modification with safety impacts.

VII. Pipeline Assessment Tools

Section 195.452 of the pipeline safety regulations specifies requirements for assuring the integrity of pipeline segments where a hazardous liquid release could affect a high consequence area (referred to in this notice as ''covered segments''). Among other requirements, the regulations require that operators of covered segments conduct assessments, which consist of direct or indirect inspection of the pipelines, to detect evidence of degradation. Section 195.452(d) requires operators to conduct a baseline assessment of all covered segments. Section 195.452(j) requires that operators conduct assessments periodically thereafter.

Section 195.452 specifies the techniques that must be used to perform the required periodic IM assessments.[2] ILI is among the allowed techniques. Supervisory Control and Data Acquisition (SCADA) system is a technique allowed for gas transmission pipelines but is not specifically addressed in § 195.452 although it is also applicable to hazardous liquid pipelines.

When the IM regulations were established, consensus standards did not exist in addressing how these techniques should be applied. Since then, the American Petroleum Institute (API), National Association of Corrosion Engineers (NACE), and the American Society for Non-Destructive Testing (ASNT) published standards for using ILI and SCCDA as assessment techniques. Also, PHMSA received a petition from NACE requesting that PHMSA incorporate ANSI/NACE Standard RP0204, NACE Standard RP0102–2002, and seven other NACE standards into 49 CFR parts 192 and 195. These referenced consensus standards address the selection of in-line inspection tools for assessing the physical condition of in-service hazardous liquids pipelines. Since the NACE petition, two of these standards have been developed from recommended practices into NACE Standard Practice (SP0102–2010 and NACE SP0204–2008.)

In addition, NTSB issued the following safety recommendation to PHMSA on July 10, 2012, (P–12–3):

Revise Title 49 Code of Federal Regulations 195.452 to clearly state (1) when an engineering assessment of crack defects, including environmentally assisted cracks, must be performed; (2) the acceptable methods for performing these engineering assessments, including the assessment of cracks coinciding with corrosion with a safety factor that considers the uncertainties associated with sizing of crack defects; (3) criteria for determining when a probable crack defect in a pipeline segment must be excavated and time limits for completing those excavations; (4) pressure restriction limits for crack defects that are not excavated by the required date; and (5) acceptable methods for determining crack growth for any cracks allowed to remain in the pipe, including growth caused by fatigue, corrosion fatigue, or stress corrosion cracking as applicable.

[2] Operators are allowed to use techniques not specifically identified in these sections provided that the techniques provide an equivalent understanding of pipe condition and that operators notify PHMSA in advance of their use of such other techniques.

This proposed rule would incorporate by reference consensus standards for assessing the physical condition of in-service hazardous liquids pipelines using ILI and SCCDA. Incorporation of the consensus standards would assure better consistency, accuracy and quality in pipeline assessments conducted using these techniques. This proposal addresses those parts of NTSB Recommendation P–12–3—identifying crack defects and seam corrosion by using crack tools and circumferential tools—by incorporating the above cited industry standards. The remainder of NTSB Recommendation P–12–3 will be addressed in PHMSA's rulemaking titled ''Pipeline Safety—Safety of On-Shore Hazardous Liquid Pipelines.'' Therefore, PHMSA proposes to incorporate by reference the following consensus standards into 49 CFR part 195: API STD 1163, ''In-Line Inspection Systems Qualification Standard'' (August 2005); NACE Standard Practice SP0102–2010 ''Inline Inspection of Pipelines'' NACE SP0204–2008 ''Stress Corrosion Cracking Direct Assessment;'' and ANSI/ASNT ILI–PQ–2010, ''In-line Inspection Personnel Qualification and Certification'' (2010). Also, PHMSA proposes to allow pipeline operators to conduct assessments using tethered or remote control tools not explicitly discussed in NACE SP0102–2010, provided the operators comply with applicable sections of NACE SP0102–2010.

Note that this proposed rulemaking action addresses only part 195, but PHMSA is considering a similar proposed requirement in 49 CFR part 192.

Justification for the Recommended Incorporation

Incorporation of the consensus standards would assure better consistency, accuracy and quality in pipeline assessments conducted using ILI and SCCDA.

Standards for ILI

When the part 195 IM requirements were issued, there were no consensus industry standards that addressed ILI. Since then the following standards have been published:

1. In 2002, NACE International published the first consensus industry standard that specifically addressed ILI (NACE Recommended Practice RP0102, ''Inline Inspection of Pipelines''). NACE International revised this document in 2010 and republished it as a Standard Practice, SP0102.

PHMSA considers that the consistency, accuracy, and quality of pipeline ILI would be improved by

incorporating the NACE International 2010 standard into the regulations. PHMSA asked the Standards Developing Organizations to develop this and the other standards and PHMSA is now proposing to adopt them to bring consistency throughout the industry. These standards provide tables to improve tool selection. PHMSA is providing hazardous liquids pipeline operators choices of tools to assess their pipelines and, therefore, PHMSA does not believe that these tool selections incur additional costs to the pipeline operators. The NACE International standard applies to ''free swimming'' inspection tools that are carried down the pipeline by the transported fluid. It does not apply to tethered or remotely controlled ILI tools. While the usage of tethered or remotely controlled ILI tools is less prevalent than the usage of free swimming tools, some pipeline IM assessments have been conducted using these tools. PHMSA believes many of the provisions in the NACE International standard can be applied to tethered or remotely controlled ILI tools and, therefore, is proposing that use of these tools continue to be allowed provided they generally comply with applicable sections of the NACE standard. The NACE standards were reviewed by PHMSA experts, and they agree with the provisions in the standards. Many operators are already following those guidelines. Our inspection guides would provide further instructions when final rule is implemented.

2. In 2005, the ASNT published ANSI/ASNT ILI–PQ, ''In-line Inspection Personnel Qualification and Certification.''

The ASNT standard provides for qualification and certification requirements that are not addressed in part 195. In 2010 ASNT published ANSI/ASNT ILI–PQ with editorial changes. The incorporation of this standard into the Federal pipeline safety regulations would promote a higher level of safety by establishing consistent standards to qualify the equipment, people, processes, and software utilized by the ILI industry. This and the other standards are being used by many operators but not all. This rule would ensure that all operators use these standards. Overall cost would not change, because these consensus standards would help operators eliminate problems before they arise. SCCDA is a technique allowed for gas transmission pipelines but is not specifically addressed in § 195.452 although it is also applicable to hazardous liquid pipelines. This rulemaking action would allow HL operators to use the SCCDA technique and ASNT is one of them. The ASNT standard addresses in detail each of the following aspects, which are not currently addressed in the regulations:

- Requirements for written procedures.
- Personnel qualification levels.
- Education, training, and experience requirements.
- Training programs.
- Examinations (testing of personnel).
- Personnel certification and recertification.
- Personnel technical performance evaluations.

3. In 2005, API published API STD 1163, ''In-Line Inspection Systems Qualification Standard.''

This Standard serves as an umbrella document that is to be used with and complements the NACE International and ASNT standards that are incorporated by reference in API STD 1163. The API standard is more comprehensive than the requirements currently in part 195. The incorporation of this standard into the Federal pipeline safety regulations would promote a higher level of safety by establishing a consistent methodology to qualify the equipment, people, processes, and software utilized by the ILI industry. The API standard addresses, in detail, each of the following aspects of ILI inspections:

- Systems qualification process.
- Personnel qualification.
- ILI system selection.
- Qualification of performance specifications.
- System operational validation.
- System results qualification.
- Reporting requirements.
- Quality management system.

Stress Corrosion Cracking (SCC) Direct Assessment

4. NACE SP0204–2008 ''Stress Corrosion Cracking Direct Assessment.''

SCC is a degradation mechanism in which steel pipe develops closely spaced tight cracks through the combined action of corrosion and tensile stress (circumferential, residual, or applied). These cracks can grow or coalesce to affect the integrity of the pipeline. SCC is one of several threats that can impact pipeline integrity. IM regulations in Part 195 require that pipeline operators assess covered pipe segments periodically to detect degradation from threats that their analyses have indicated could affect the segment. Not all covered segments are subject to an SCC threat, but for those that are, SCCDA is an assessment technique that can be used to address this threat.

Part 195 presently includes no requirements applicable to the use of SCCDA. Experience has shown that pipelines can go through SCC degradation in areas where the surrounding soil has a pH near neutral (referred to as near-neutral SCC). NACE Standard Practice SP0204–2008 addresses near-neutral SCC. In addition, the NACE International recommended practice provides technical guidelines and process requirements that are both more comprehensive and rigorous for conducting SCCDA than are provided by § 192.929 or ASME/ANSI B31.8S.

The NACE standard provides additional guidance as follows:

- The factors that are important in the formation of SCC on a pipeline and what data should be collected;
- Additional factors, such as existing corrosion, which could cause SCC to form;
- Comprehensive data collection guidelines, including the relative importance of each type of data;
- Requirements to conduct close interval surveys of cathodic protection or other aboveground surveys to supplement the data collected during pre-assessment;
- Ranking factors to consider for selecting excavation locations for both near-neutral and high pH SCC;
- Requirements on conducting direct examinations, including procedures for collecting environmental data, preparing the pipe surface for examination, and conducting Magnetic Particle Inspection (MPI) examinations of the pipe; and
- Post assessment analysis of results to determine SCCDA effectiveness and assure continual improvement.

In general, NACE SP0204–2008 provides thorough and comprehensive guidelines for conducting SCCDA and is more comprehensive in scope than Appendix A3 of ASME/ANSI B31.8S. PHMSA believes that requiring the use of NACE SP0204–2008 would enhance the quality and consistency of SCCDA conducted under IM requirements.

SCC has also been the subject of research and development (R&D) programs that have been funded in whole or in part by PHMSA in recent years. PHMSA reviewed the results of several R&D programs concerning SCC as part of its consideration of whether it was appropriate to incorporate the NACE standard into the regulations. Among the reports PHMSA reviewed was ''Development of Guidelines for Identification of SCC Sites and Estimation of Re-inspection Intervals for SCC Direct Assessment,'' published by Integrity Corrosion Consulting Ltd. in May 2010 (*https://*

primis.phmsa.dot.gov/matrix/PrjHome.rdm?prj=199). This report evaluated the results of numerous studies conducted since the 1960s regarding SCC. The report used the conclusions from the studies to identify a group of 109 guidelines that pipeline operators could use to help identify sites where SCC might occur and determine appropriate re-inspection intervals when SCC is found. The guidelines address both high-pH and near-neutral-pH conditions. This report noted that the information used in developing the NACE standard consisted primarily of empirical data gathered from operators examining pipeline field conditions and failures. In contrast, the studies examined by Integrity Corrosion Consulting were mechanistic studies, and their results serve to complement the information operators have gained through field experience. PHMSA's review of the guidelines in this report identified a number of areas not addressed in detail in the NACE standard. Accordingly, PHMSA has included additional factors in this proposed rule (proposed § 195.588) that an operator must consider if the operator uses direct assessment to assess SCC.

SCC was also a topic in an advance notice of proposed rulemaking (ANPRM) published by PHMSA on October 18, 2010 (75 FR 63774). The ANPRM addressed several potential changes to the regulations governing the safety of hazardous liquids pipelines. Among other topics, it posed a number of questions concerning SCC, including whether the NACE standard addresses the full life cycle concerns associated with SCC, NACE's efficacy, and whether the NACE standard or any other standards should be adopted to govern the conduct of SCC assessments. PHMSA received a limited number of comments to the ANPRM that addressed the SCC questions. Joint comments from the American Petroleum Institute and the Association of Oil Pipelines (API–AOPL) noted that NACE SP0204–2008 is a reasonable standard but does not address all aspects of SCC control. API–AOPL noted that forthcoming updates of API Standard 1160, ''Managing System Integrity for Hazardous Liquid Pipelines,'' and API Standard 1163, ''In-Line Inspection Systems Qualification Standard,'' would be better references to address SCC management. The Texas Pipeline Association recommended against adopting the NACE standard, contending that it is too new for operators to have significant experience with it. The National Association of Pipeline Safety Representatives suggested that PHMSA should require an assessment for SCC any time there is a credible threat of its occurrence; however, API–AOPL suggested that requiring assessment for ''any credible threat'' was too extreme and that some significance threshold should be used. The National Resources Defense Council suggested the need for special attention to sulfide-assisted SCC in pipelines carrying diluted bitumen (*i.e.,* tar sands oil). No commenters indicated knowledge of statistics supporting the efficacy of any current SCC standard or guideline.

PHMSA acknowledges that the NACE standard may not address all aspects of SCC management, but PHMSA considers it better to incorporate additional structured guidance that is available now rather than await future standards. There is continual improvement in technology to detect and address various SCC threats. Three different standards organizations are currently working to improve standards on SCC: ASME B31.8, NACE 204 and API 1160. PHMSA participates on these technical committees. As more knowledge is gained on other types of SCC, such as sulfide assisted SCC and when newer standards get published, PHMSA would adopt them.

As for NAPSR's comment on assessing any credible SCC threat, PHMSA believes that any proposed requirements for SCC would need to be considered in a separate rulemaking effort. States always have option to make requirements more stringent. PHMSA will consider incorporating updates to API 1160 once that standard is published. PHMSA will also continue to consider the comments received in response to its ANPRM.

PHMSA is proposing to revise § 195.588, which specifies requirements for the use of external corrosion direct assessment on hazardous liquid pipelines, to include reference to NACE SP0204–2008 for the conduct of SCCDA. The proposal would not require that SCCDA assessments be conducted, but it would require that the NACE standard be followed if an operator elects to perform such assessments. PHMSA has included additional factors that an operator must consider to address these if the operator uses direct pipeline to assess SCC.

VIII. Electronic Reporting of Drug and Alcohol Testing Results

PHMSA's pipeline safety regulations at §§ 191.7 and 195.58 require electronic reporting of most pipeline safety reports through the PHMSA Portal. PHMSA proposes to also require electronic reporting for anti-drug testing results required at § 199.119 and alcohol testing results required at § 199.229. Pipeline operators with fewer than 50 covered employees are required to submit these reports only when PHMSA provides written notice. PHMSA proposes to modify these regulations to specify that PHMSA will provide notice to operators in the PHMSA Portal.

IX. Post-Accident Drug and Alcohol Testing

The NTSB issued the following safety recommendation to PHMSA (September 26, 2011, NTSB Recommendation P–11–12):

> Amend §§ 199.105 and 199.225 to eliminate operator discretion with regard to testing of covered employees. The revised language should require drug and alcohol testing of each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.

PHMSA proposes to modify §§ 199.105 and 199.225 by requiring drug testing of employees after an accident and allowing exemption from drug testing only when there is sufficient information that establishes the employee(s) had no role in the accident.

PHMSA's regulations require the documentation of decisions not to administer a post-accident alcohol test but the requirement to document decisions not to administer a post-accident drug test is only implied in the regulation, and the implied requirement is generally followed. PHMSA proposes to add a section to the post-accident drug testing regulation to require documentation of the decision and to keep the documentation for at least three years.

X. Information Made Available to the Public and Request for Confidential Treatment

When any information is submitted to PHMSA during a rulemaking proceeding, as part of an application for a special permit, or for any other reason, PHMSA may make that information publicly available. PHMSA does not currently have a procedure in the pipeline safety regulations by which a request can be made for confidential treatment of information. PHMSA has such a procedure in its hazardous materials safety regulations. Therefore, for consistency in the way we treat submitted information, PHMSA proposes a procedure where anyone who submits information may request for confidential treatment of that information. As part of the procedure, if PHMSA receives a request for the record(s), PHMSA would conduct a

review of the records under the Freedom of Information Act.

In accordance with Departmental FOIA regulations, if a request is received for information that has been designated by the submitter as confidential, we would notify the submitter and provide an opportunity to the submitter to submit any written objections. Whenever a decision is made to disclose such information over the objections of a submitter, we would notify the submitter in writing at least five days before the date the information is publicly disclosed.[3]

XI. In Service Welding

In 1987, the U.S. Department of Transportation, Office of Pipeline Safety issued Alert Notice ALN–87–01 which advised pipeline owners and operators of a pipeline incident involving the welding of a full encirclement repair sleeve on a 14'' API 5L X52 pipeline near King of Prussia, PA. The pipeline failure released thousands of barrels of gasoline and was directly related to cracks developed in a fillet weld of a Type B full encirclement repair sleeve. The metallurgical analysis conducted by Battelle Laboratories concluded hydrogen and stress caused cracking of the excessively hard heat affected material in the carrier pipe. Contributing factors included poor weldability of the carrier pipe due to its high carbon equivalent, a very high cooling rate of the weld due to liquid product being present inside the pipeline during welding, the presence of hydrogen in the welding environment due to the use of cellulosic coated electrodes, residual stresses, and high restraint inherent in the geometry of the sleeve weldment. The alert notice strongly recommended that the use of welding procedures similar to the one that failed (use of cellulosic electrodes) be discontinued and that magnetic particle inspection has been proven to be an accurate method for detecting cracked in-service fillet welds.

In response to this failure and advancements in pipeline and welding engineering, the American Petroleum Institute (API) developed, improved, and now includes Appendix B *In-service Welding* to the API Standard 1104 *Welding of Pipelines and Related Facilities.* API 1104 Appendix B contains provisions for the development of welding procedures and welder qualifications that address the safety concerns of welding to an in-service pipeline. Welding procedures developed to API 1104 Appendix B consider the risks associated with hydrogen in the weld metal, type of welding electrode, sleeve/fitting and carrier pipe materials, accelerated cooling, and stresses across the fillet welds. At the present time, typical industry developed in-service welding procedures utilize all or some combinations of low hydrogen electrodes, preheat, temper bead deposition sequence, heat input control, cooling rate analysis, analysis based on pipe/sleeve/fitting material carbon equivalence, and address wall thickness/burn-through concerns. The Office of Pipeline Safety alert notice encouraged the development and use of welding procedures that address improvements in pipeline safety and many operators have developed in-service welding procedures.

Unfortunately, parts 192 and 195 were not modified to include the addition of API 1104 Appendix B as an acceptable section for the development of welding procedures and welder qualification. At the present time, parts 192 and 195 only adopt into Federal Regulation Sections 5, 6, 9 and Appendix A. This proposed rule seeks to rectify this oversight and state the acceptability of developing procedures and qualifying welders to Appendix B of API 1104. Currently, PHMSA does not allow in service welding, but this proposal would allow the operators to follow Appendix B of API 1104 for in service welding. Therefore, PHMSA proposes to revise 49 CFR 192.225, 192.227, 195.214, and 195.222 to add reference to API 1104, Appendix B.

XII. Editorial Amendments

In this NPRM, PHMSA is also proposing to make the following editorial amendments to the pipeline safety regulations:

Summary of Correction to § 192.175(b)

PHMSA's predecessor agency, the Research and Special Programs Administration, issued a final rule on July 13, 1998; 63 FR 37500 to provide metric equivalents to the English units for informational purposes only. Operators were required to continue using the English units for purposes of compliance and enforcement. The metric equivalent provided in § 192.175(b) ''C=(DxPxF/48.33) (C=(3DxPxF/1,000)''—is incorrect. The correct formula is: ''C = (3D*P*F)/1000) (C = (3D*P*F*)/6,895)'', where, ''C = (3D*P*F)/1000)'' is in inches (English unit), and ''(C = (3D*P*F*)/6,895)'' is in millimeters (metric conversion).

Summary of Correction to § 195.64(a) and § 195.64(c)(1)(ii)

PHMSA published a final rule on November 26, 2010; 75 FR 72878, which established the National Registry of Pipeline and LNG Operators. In the rule, PHMSA inadvertently omitted the inclusion of carbon dioxide in the operating commodity types. To maintain consistency with the rest of part 195, this proposed rule would amend the language in §§ 195.64(a) and 195.64(c)(1)(ii) to correct the term ''hazardous liquid'' to read ''hazardous liquid or carbon dioxide.''

In § 195.248, the conversion to 100 feet is mistakenly stated as 30 millimeters. Therefore, PHMSA proposes to replace the phrase ''100 feet (30 millimeters)'' to correctly read ''100 feet (30.5 meters).''

In addition, low stress pipelines are not specified in § 195.452. Section 195.452 applies to each hazardous liquid pipeline and carbon dioxide pipeline that could affect a high consequence area, including any pipeline located in a high consequence area unless the operator effectively demonstrates by risk assessment that the pipeline could not affect the area. Therefore, PHMSA proposes to add a new paragraph (a)(4) to clarify the applicability of § 195.452 to low stress pipelines as described in § 195.12.

XIII. Availability of Standards Incorporated by Reference

PHMSA currently incorporates by reference into 49 CFR parts 192, 193, and 195 all or parts of more than 60 standards and specifications developed and published by standard developing organizations (SDOs). In general, SDOs update and revise their published standards every 3 to 5 years to reflect modern technology and best technical practices. The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) directs Federal agencies to use voluntary consensus standards in lieu of government-written standards whenever possible. Voluntary consensus standards are standards developed or adopted by voluntary bodies that develop, establish, or coordinate technical standards using agreed-upon procedures. In addition, Office of Management and Budget (OMB) issued OMB Circular A–119 to implement Section 12(d) of Public Law 104–113 relative to the utilization of consensus technical standards by Federal agencies. This circular provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying

[3] Note—the Departmental FOIA regulations say that a written notice of intent to disclose will be forwarded a reasonable number of days prior to the specified date upon which disclosure is intended. See 49 CFR 7.17. See also the Hazmat regulations in 49 CFR 105.30.

the reporting requirements in Public Law 104–113.

In accordance with the preceding provisions, PHMSA has the responsibility for determining, via petitions or otherwise, which currently referenced standards should be updated, revised, or removed, and which standards should be added to 49 CFR parts 192, 193, and 195. Revisions to incorporate by reference materials in 49 CFR parts 192, 193, and 195 are handled via the rulemaking process, which allows for the public and regulated entities to provide input. During the rulemaking process, PHMSA must also obtain approval from the Office of the Federal Register to incorporate by reference any new materials.

On January 3, 2012, President Obama signed the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Public Law 112–90. Section 24 requires the Secretary not to issue guidance or a regulation to incorporate by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site. 49 U.S.C. 60102(p).

On August 9, 2013, Public Law 113–30 revised 49 U.S.C. 60102(p) to replace ''1 year'' with ''3 years'' and remove the phrases ''guidance or'' and, ''on an Internet Web site.''

Further, the Office of the Federal Register issued a November 7, 2014, rulemaking (79 FR 66278) that revised 1 CFR 51.5 to require that agencies detail in the preamble of a proposed rulemaking the ways the materials it proposes to incorporate by reference are reasonably available to interested parties, or how the agency worked to make those materials reasonably available to interested parties. In relation to this proposed rulemaking, PHMSA has contacted each SDO and has requested free public access of each standard that has been proposed for incorporation by reference. Access to these standards will be granted until the end of the comment period for this proposed rulemaking. Access to these documents can be found on the PHMSA Web site at the following URL: *http://www.phmsa.dot.gov/pipeline/regs* under ''Standards Incorporated by Reference.''

XIV. Regulatory Analyses and Notices

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This proposed rule is a non-significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735), and therefore is reviewed by the Office of Management and Budget. This proposed rule is non-significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) because of substantial congressional, State, industry, and public interest in pipeline safety.

Executive Orders 12866 and 13563 require agencies regulate in the most cost-effective manner, make a reasoned determination that the benefits of the intended regulation justify its costs, and develop regulations that impose the least burden on society. In this notice, PHMSA is proposing to:

- Add a specific time frame for telephonic or electronic notifications of accidents and incidents;
- Establish PHMSA's cost recovery procedures for new projects that cost over $2,500,000,000 or use new and novel technologies;
- Modify operator qualification requirements including addressing a NTSB recommendation to clarify OQ requirements for control rooms;
- Add provisions for the renewal of expiring special permits;
- Exclude farm taps from the requirements of the DIMP requirements while proposing safety requirements for the farm taps
- To address NTSB recommendations for control room team training and other recommendations;
- Require pipeline operators to report to PHMSA permanent reversal of flow that lasts more than 30 days or to a change in product;
- Provide methods for assessment tools by incorporating consensus standards by reference in part 195 for ILI and SCCDA;
- Require electronic reporting of drug and alcohol testing results in part 199;
- Modify the criteria used to make decisions about conducting post-accident drug and alcohol tests and require operators to keep for at least three years a record of the reason why post-accident drug and alcohol test was not conducted;
- Add a procedure to ensure PHMSA keeps submitted information confidential.
- Adding reference to Appendix B of API 1104 related to in-service welding in parts 192 and 195; and
- Making minor editorial corrections.

As a summary of the costs/benefits the annual compliance costs were estimated at approximately $3.1 million, less savings to be realized from the removal of farm taps from the DIMP requirements. Annual safety benefits could not be quantified as readily due to data limitations but were estimated in the range of $1.6 million per year in avoided incident costs, plus numerous intangible benefits from the improved clarity and consistency of regulations and improved abilities to conduct post-incident investigations. Although the quantified benefits do not exceed the quantified costs, PHMSA believes that these non-quantified benefits are significant enough to outweigh the costs of compliance. In particular, improvements to Operator Qualification and post-incident investigation may prevent a future high-consequence event. At an annual compliance cost of $3.1 million, the proposed new Operator Qualification and post-accident testing requirements would be cost-effective if they prevented a single fatal incident over a 3-year period.

COSTS VS BENEFITS TABLE

Annual Costs	$3.1 million.
Annual Benefits	$1.6 million plus unquantified safety benefits and farm tap savings.

A regulatory evaluation containing a statement of the purpose and need for this rulemaking and an analysis of the costs and benefits is available in Docket No. PHMSA–2013–0163.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities. PHMSA is proposing to add new requirements and make changes to the existing pipeline safety regulations.

Description of the reasons why action by PHMSA is being considered.

PHMSA is proposing to amend the regulations to address the 2011 Act's Section 9 (Accident and Incident reporting requirements) to within one hour so that timely actions can be taken to pipeline accidents and incidents, and Section 13 (Cost Recovery) so that PHMSA's limited resources for enforcement and other safety activities are not used for operators design reviews. NTSB recommendations for control room training and drug and alcohol reporting requirements are addressed under this proposed rule. A special permit renewal procedure is proposed so that pipeline operators would have a renewal procedure to follow to renew their expiring special permits. The OQ requirements scope is expanded for new constructions and a program effectiveness review is required so that Operators can review their OQ programs for effectiveness. In addition, other non-substantive changes are

proposed to correct language and provide methods for assessment tools as recommended by incorporating consensus standards (this addresses parts of NTSB recommendations P–12–3 and the NACE recommendations). Specifically, these amendments address: Farm tap requirements to address the NAPSR and INGAA concerns in including farm taps under the DIMP requirements; notification for reversal of flow or change in product for more than 60 days so that PHMSA is aware of the transported product; incorporation by reference of standards to address ILI and SCCDA; and additional testing of drug and alcohol tests, electronic reporting of drug and alcohol testing results, modifying the criteria used to make decisions about conducting post-accident drug and alcohol tests and post-accident drug and alcohol testing recordkeeping to address a NTSB recommendation; process to request submitted information be kept confidential similar to the current Hazmat process in 49 CFR 105.30; and, editorial amendments to correct some errors or outdated deadlines.

Succinct statement of the objectives of, and legal basis for, the proposed rule.

Under the Federal Pipeline Safety Laws, 49 U.S.C. 60101 *et seq.,* the Secretary of Transportation must prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The Secretary has delegated this authority to the PHMSA Administrator (49 CFR 1.97(a)). The proposed rule would create changes in the regulations consistent with the protection of persons and property.

Description of small entities to which the proposed rule will apply.

The Initial Regulatory Flexibility Analysis finds that the proposed rule could affect a substantial number of small entities because of the market structure of the gas and hazardous liquids pipeline industry, which includes many small entities. However, these impacts would not be significant. The OQ provision would entail new costs for small entities in the range of $160.00 per employee per year, or about 0.3% of salary for a typical pipeline employee. The provision to document the reason for not drug testing post-accident would add $74.00 in documentation costs per reportable incident. The other provisions would not add appreciable costs, and at least one provision (Farm Taps) would yield compliance cost savings, though those savings are not expected to be significant.

Description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities, including alternatives considered.

PHMSA is unaware of any alternatives which would produce smaller economic impacts on small entities while at the same time meeting the objectives of the relevant statutes.

Questions for Comment on Regulatory Flexibility Analysis

PHMSA is requesting public comments for the Regulatory Flexibility Analysis as follows:

1. Provide any data concerning the number of small entities that may be affected.

2. Provide comments on any or all of the provisions in the proposed rule with regard to (a) the impact of the provisions, if any, and (b) any alternatives PHMSA should consider, paying specific attention to the effect of the rule on small entities.

3. Describe ways in which the rule could be modified to reduce any costs or burdens for small entities.

4. Identify all relevant Federal, state, local, or industry rules or policies that may duplicate, overlap, or conflict with the proposed rule and have not already been incorporated by reference.

Executive Order 13175

PHMSA has analyzed this proposed rule according to the principles and criteria in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The funding and consultation requirements of Executive Order 13175 do not apply because this proposed rule does not significantly or uniquely affect the communities of Indian tribal governments or impose substantial direct compliance costs.

Paperwork Reduction Act

Pursuant to 5 CFR 1320.8(d), PHMSA is required to provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. PHMSA estimates that the proposals in this rulemaking will impact the following information collections:

''Transportation of Hazardous Liquids by Pipeline: Record keeping and Accident Reporting'' identified under Office of Management and Budget (OMB) Control Number 2137–0047; ''Incident and Annual Reports for Gas Pipeline Operators'' identified under Office of Management and Budget (OMB) Control Number 2137–0522; ''Qualification of Pipeline Safety Training'' identified under Office of Management and Budget (OMB) Control Number 2137–0600; and ''National Registry of Pipeline and LNG Operators'' identified under Office of Management and Budget (OMB) Control Number 2137–0627.

PHMSA also proposes to create a new information collection to cover the recordkeeping requirement for post-accident drug testing: ''Post-Accident Drug Testing for Pipeline Operators.'' PHMSA will request a new Control Number from the Office of Management and Budget (OMB) for this information collection.

PHMSA will submit an information collection revision request to OMB for approval based on the requirements that need information collection in this proposed rule. The information collection is contained in the pipeline safety regulations, 49 CFR parts 190 through 199. The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. The information collection burdens are estimated to be revised as follows:

1. *Title:* Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

OMB Control Number: 2137–0047.

Current Expiration Date: July 31, 2015.

Abstract: This information collection covers recordkeeping and accident reporting by hazardous liquid pipeline operators who are subject to 49 CFR part 195. Section 195.50 specifies the definition of an ''accident'' and the reporting criteria for submitting a Hazardous Liquid Accident Report (form PHMSA F7000–1) is detailed in § 195.54. PHMSA is proposing to revise the form PHMSA F7000–1 instructions for editorial and clarification purposes. This proposal would result in a modification to the Hazardous Liquid Accident Report form (Form PHMSA F 7000–1) to include the concept of ''confirmed discovery'' as proposed in this rule.

Affected Public: Hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 847.

Total Annual Burden Hours: 52,429.

Frequency of collection: On Occasion.

2. *Title:* Incident and Annual Reports for Gas Pipeline Operators.

OMB Control Number: 2137–0522.

Current Expiration Date: October 31, 2017.

Abstract: This proposal would result in a modification to the Gas Distribution Incident Report form (Form PHMSA F 7100.1) to include the concept of ''confirmed discovery'' as proposed in this rule.

Affected Public: Gas pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 12,164.

Total Annual Burden Hours: 92,321.

Frequency of Collection: On occasion.

3. *Title:* Qualification of Pipeline Safety Training''

OMB Control Number: 2137–0600.

Current Expiration Date: July 31, 2018.

Abstract: All individuals responsible for the operation and maintenance of pipeline facilities are required to be properly qualified to safely perform their tasks and keep proper documentation as required by PHMSA regulations. As a result of the changes proposed in this NPRM, PHMSA estimates a total of 16,008 new employees will be subject to participate in an OQ plan either as a result of new gathering line requirements or because of newly covered tasks. Participation in an OQ plan necessitates the retention of records associated with those plans. This proposal will impose a recordkeeping requirement for Operator Qualifications on the estimated 16,008 newly covered employees that will be affected by this rule. As a result, 16,008 responses and 42,668 annual burden hours will be added to the existing information collection burden.

Affected Public: Operators of PHMSA-Regulated Pipelines.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 31,835

Total Annual Burden Hours: 509,360.

Frequency of Collection: On occasion.

4. *Title:* ''National Registry of Pipeline and LNG Operators''

OMB Control Number: 2137–0627.

Current Expiration Date: May 31, 2018.

Abstract: The National Registry of Pipeline and LNG Operators serves as the storehouse of data on regulated operators or those subject to reporting requirements under 49 CFR parts 192, 193, or 195. This registry incorporates the use of two forms: (1) The Operator Assignment Request Form (PHMSA F 1000.1) and, (2) the Operator Registry Notification Form (PHMSA F 1000.2). This proposed rule would amend § 191.22 to require operators to notify PHMSA upon the occurrence of the following: Construction of 10 or more miles of a new or replacement pipeline; construction of a new LNG plant or LNG facility; reversal of product flow direction when the reversal is expected to last more than 30 days; if a pipeline is converted for service under § 192.14, or has a change in commodity as reported on the annual report as required by § 191.17.

These notifications are estimated to be rare but would fall under the scope of Operator Notifications required by PHMSA as a result of this proposed rule. PHMSA estimates that this new reporting requirement will add .10 new responses and 10 annual burden hours to the currently approved information collection.

Affected Public: Operators of PHMSA-Regulated Pipelines

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 640.

Total Annual Burden Hours: 640.

Frequency of Collection: On occasion.

5. *Title:* ''Post-Accident Drug Testing for Pipeline Operators''

OMB Control Number: Will request one from OMB.

Current Expiration Date: New Collection—To be determined.

Abstract: This NPRM proposes to amend 49 CFR 199.227 to require operators to retain records for three years if they decide not to administer post-accident/incident drug testing on affected employees). As a result, operators who choose not to perform post-accident drug and alcohol tests on affected employees are required to keep records explaining their decision not to do so. PHMSA estimates this recordkeeping requirement will result in 609 responses and 609 burden hours for recordkeeping. PHMSA does not currently have an information collection which covers this requirement and will request the approval of this new collection, along with a new OMB Control Number, from the Office of Management and Budget.

Affected Public: Operators of PHMSA-Regulated Pipelines

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 609

Total Annual Burden Hours: 1,218.

Frequency of Collection: On occasion.

Requests for copies of these information collections should be directed to Angela Dow, Office of Pipeline Safety (PHP–30), Pipeline and Hazardous Materials Safety Administration, 2nd Floor, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone: 202–366–1246.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the revised collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Send comments directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of Transportation, 725 17th Street NW., Washington, DC 20503. Comments should be submitted on or prior to September 8, 2015.

Unfunded Mandates Reform Act of 1995

PHMSA has determined that the proposed rule would not impose annual expenditures on State, local, or tribal governments of the private sector in excess of $153 million, and thus, does not require an Unfunded Mandates Act analysis.[4]

National Environmental Policy Act

The National Environmental Policy Act (42 U.S.C. 4321 through 4375) requires that Federal agencies analyze proposed actions to determine whether those actions will have a significant impact on the human environment. The Council on Environmental Quality regulations require Federal agencies to conduct an environmental review considering: (1) The need for the proposed action, (2) alternatives to the proposed action, (3) probable environmental impacts of the proposed action and alternatives, and (4) the agencies and persons consulted during the consideration process (40 CFR 1508.9(b)).

1. Purpose and Need

PHMSA's mission is to protect people and the environment from the risks of hazardous materials transportation. The purpose of this proposed rule is to enhance pipeline integrity and safety to lessen the frequency and consequences of pipeline incidents that cause environmental degradation, personal injury, and loss of life.

[4] The Unfunded Mandates Act threshold was $100 million in 1995. Using the non-seasonally adjusted CPI–U (Index series CUUR000SA0), that number is $153 million in 2013 dollars.

The need for this action stems from the statutory mandates in Sections 9 and 13 of the 2011 Act, NTSB recommendations, and the need to add new reference material and make non substantive edits. Section 9 of the 2011 Act directs PHMSA to require a specific time limit for telephonic or electronic reporting of pipeline accidents and incidents, and Section 13 of the 2011 Act allows PHMSA to recover costs associated with pipeline design reviews. NTSB has made recommendations regarding the clarification of OQ requirements in control rooms, and to eliminate operator discretion with regard to post-accident drug and alcohol testing of covered employees. In addition, PHMSA's safety regulations require periodic updates and clarifications to enhance compliance and overall safety.

2. Alternatives

In developing the proposed rule, PHMSA considered two alternatives:

(1) No action, or

(2) Propose revisions to the pipeline safety regulations to incorporate the proposed amendments as described in this document.

Alternative 1:

PHMSA has an obligation to ensure the safe and effective transportation of hazardous liquids and gases by pipeline. The changes proposed in this proposed rule serve that purpose by clarifying the pipeline safety regulations and addressing Congressional mandates and NTSB safety recommendations. A failure to undertake these actions would be non-responsive to the Congressional mandates and the NTSB recommendations. Accordingly, PHMSA rejected the ''no action'' alternative.

Alternative 2:

PHMSA is proposing to make certain amendments and non-substantive changes to the pipeline safety regulations to add a specific time frame for telephonic or electronic notifications of accidents and incidents and add provisions for cost recovery for design reviews of certain new projects, for the renewal of expiring special permits, and to request PHMSA keep submitted information confidential. We are also proposing changes to the OQ requirements and drug and alcohol testing requirements and proposing methods for assessment tools by incorporating consensus standards by reference for in-line inspection and stress corrosion cracking direct assessment.

3. Analysis of Environmental Impacts

The Nation's pipelines are located throughout the United States in a variety of diverse environments; from offshore locations, to highly populated urban sites, to unpopulated rural areas. The pipeline infrastructure is a network of over 2.6 million miles of pipelines that move millions of gallons of hazardous liquids and over 55 billion cubic feet of natural gas daily. The biggest source of energy is petroleum, including oil and natural gas. Together, these commodities supply 65 percent of the energy in the United States.

The physical environments potentially affected by the proposed rule includes the airspace, water resources (*e.g.,* oceans, streams, lakes), cultural and historical resources (*e.g.,* properties listed on the National Register of Historic Places), biological and ecological resources (*e.g.,* coastal zones, wetlands, plant and animal species and their habitats, forests, grasslands, offshore marine ecosystems), and special ecological resources (*e.g.,* threatened and endangered plant and animal species and their habitats, national and State parklands, biological reserves, wild and scenic rivers) that exist directly adjacent to and within the vicinity of pipelines.

Because the pipelines subject to the proposed rule contain hazardous materials, resources within the physically affected environments, as well as public health and safety, may be affected by pipeline incidents such as spills and leaks. Incidents on pipelines can result in fires and explosions, resulting in damage to the local environment. In addition, since pipelines often contain gas streams laden with condensates and natural gas liquids, failures also result in spills of these liquids, which can cause environmental harm. Depending on the size of a spill or gas leak and the nature of the impact zone, the impacts could vary from property damage and environmental damage to injuries or, on rare occasions, fatalities.

The proposed amendments are improvements to the existing pipeline safety requirements and would have little or no impact on the human environment. On a national scale, the cumulative environmental damage from pipelines would most likely be reduced slightly.

For these reasons, PHMSA has concluded that neither of the alternatives discussed above would result in any significant impacts on the environment.

Preparers: This Environmental Assessment was prepared by DOT staff from PHMSA and Volpe National Transportation Systems Center (Office of the Secretary for Research and Technology (OST–R)).

4. Finding of No Significant Impact

PHMSA has preliminarily determined that the selected alternative would have a positive, non-significant, impact on the human environment and welcomes comments on PHMSA's conclusion. The preliminary environmental assessment is available in Docket No. PHMSA–2013–0163.

Executive Order 13132

PHMSA has analyzed this proposed rule according to Executive Order 13132 (''Federalism''). The proposed rule does not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. This proposed rule does not impose substantial direct compliance costs on State and local governments. This proposed rule does not preempt State law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

This proposed rule is not a ''significant energy action'' under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). It is not likely to have a significant adverse effect on supply, distribution, or energy use. Further, the Office of Information and Regulatory Affairs has not designated this proposed rule as a significant energy action.

List of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, Cost recovery, Special permits.

49 CFR Part 191

Incident, Pipeline safety, Reporting and recordkeeping requirements, Reversal of flow.

49 CFR Part192

Control room, Distribution integrity management program, Gathering lines, Incorporation by reference, Operator qualification, Pipeline safety, Safety devices, Security measures.

49 CFR Part 195

Ammonia, Carbon dioxide, Control room, Corrosion control, Direct and indirect costs, Gathering lines, Incident,

Incorporation by reference, Operator qualification, Petroleum, Pipeline safety, Reporting and recordkeeping requirements, Reversal of flow, Safety devices.

49 CFR Part 199

Alcohol testing, Drug testing, Pipeline safety, Reporting and recordkeeping requirements, Safety, Transportation.

In consideration of the foregoing, PHMSA is proposing to amend 49 CFR parts 190, 191, 192, 195, and 199 as follows:

PART 190—PIPELINE SAFETY ENFORCEMENT AND REGULATORY PROCEDURES

■ 1. The authority citation for part 190 is revised to read as follows:

Authority: 33 U.S.C. 1321(b); 49 U.S.C. 60101 *et seq.;* 49 CFR 1.97(a).

■ 2. In § 190.3, add the definition ''New and novel technologies'' in alphabetical order to read as follows:

§ 190.3 Definitions.

* * * * *

New and novel technologies means any products, designs, materials, testing, construction, inspection, or operational procedures that are not addressed in 49 CFR parts 192, 193, or 195, due to technology or design advances and innovation.

* * * * *

■ 3. Amend § 190.341 by:

■ a. Revising paragraph (c)(8) and removing, paragraph (c)(9);

■ b. Re-designating paragraphs (e) through (j) as paragraphs (g) through (l) and adding new paragraphs (e) and (f).

The additions and revisions read as follows:

§ 190.341 Special permits.

* * * * *

(c) * * *

(8) Any other information PHMSA may need to process the application including environmental analysis where necessary.

(d) * * *

(2) *Grants, renewals, and denials.* If the Associate Administrator determines that the application complies with the requirements of this section and that the waiver of the relevant regulation or standard is not inconsistent with pipeline safety, the Associate Administrator may grant the application, in whole or in part, for a period of time from the date granted. Conditions may be imposed on the grant if the Associate Administrator concludes they are necessary to assure safety, environmental protection, or are otherwise in the public interest. If the Associate Administrator determines that the application does not comply with the requirements of this section or that a waiver is not justified, the application will be denied. Whenever the Associate Administrator grants or denies an application, notice of the decision will be provided to the applicant. PHMSA will post all special permits on its Web site at *http://www.phmsa.dot.gov/.*

(e) *How does PHMSA handle special permit renewals?* (1) To continue using a special permit after the expiration date, the grantee of the special permit must apply for a renewal of the permit.

(2) If, at least 180 days before an existing special permit expires the holder files an application for renewal that is complete and conforms to the requirements of this section, the special permit will not expire until final administrative action on the application for renewal has been taken:

(i) Direct fax to PHMSA at: 202–366–4566; or

(ii) Express mail, or overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., East Building, Washington, DC 20590.

(f) *What information must be included in the renewal application?* (1) The renewal application must include a copy of the original special permit, the docket number on the special permit, and the following information:

(i) A summary report in accordance with the requirements of the original special permit including verification that the grantee's operations and maintenance plan (O&M Plan) is consistent with the conditions of the special permit;

(ii) Name, mailing address and telephone number of the special permit grantee;

(iii) Location of special permit—areas on the pipeline where the special permit is applicable including: diameter, mile posts, county, and state;

(iv) Applicable usage of the special permit—original and future; and

(v) Data for the special permit segment and area identified in the special permit as needing additional inspections to include:

(A) Pipe attributes: Pipe diameter, wall thickness, grade, and seam type; pipe coating including girth weld coating;

(B) Operating Pressure: Maximum allowable operating pressure (MAOP); class location (including boundaries on aerial photography);

(C) High Consequence Areas (HCAs): HCA boundaries on aerial photography;

(D) Material Properties: Pipeline material documentation for all pipe, fittings, flanges, and any other facilities included in the special permit. Material documentation must include: yield strength, tensile strength, chemical composition, wall thickness, and seam type;

(E) Test Pressure: Hydrostatic test pressure and date including pressure and temperature charts and logs and any known test failures;

(F) In-line inspection (ILI): ILI survey results from all ILI tools used on the special permit segments during the previous five years;

(G) Integrity Data and Integration: The following information, as applicable, for the past five (5) years: Hydrostatic test pressure including any known test failures; casings(any shorts); any in-service ruptures or leaks; close interval survey (CIS) surveys; depth of cover surveys; rectifier readings; test point survey readings; AC/DC interference surveys; pipe coating surveys; pipe coating and anomaly evaluations from pipe excavations; SCC, selective seam corrosion and hard spot excavations and findings; and pipe exposures from encroachments;

(H) In-service: Any in-service ruptures or leaks including repair type and failure investigation findings; and

(I) Aerial Photography: Special permit segment and special permit inspection area, if applicable.

(2) PHMSA may request additional operational, integrity or environmental assessment information prior to granting any request for special permit renewal.

(3) The existing special permit will remain in effect until PHMSA acts on the application for renewal by granting or denying the request.

* * * * *

■ 4. Section 190.343 is added to subpart D to read as follows:

§ 190.343. Information made available to the public and request for confidential treatment.

When you submit information to PHMSA during a rulemaking proceeding, as part of your application for special permit or renewal, or for any other reason, we may make that information publicly available unless you ask that we keep the information confidential.

(a) Asking for confidential treatment. You may ask us to give confidential treatment to information you give to the agency by taking the following steps:

(1) Mark ''confidential'' on each page of the original document you would like to keep confidential.

(2) Send us, along with the original document, a second copy of the original document with the confidential information deleted.

(3) Explain why the information you are submitting is confidential.

(b) PHMSA Decision. PHMSA will decide whether to treat your information as confidential. We will notify you, in writing, of a decision to grant or deny confidentiality at least five days before the information is publicly disclosed, and give you an opportunity to respond

■ 5. In part 190, subpart E is added to read asfollows:

Subpart E—Cost Recovery for Design Reviews

Sec.

§ 190.401 Scope.

If PHMSA conducts a facility design and/or construction safety review or inspection in connection with a proposal to construct, expand, or operate a gas, hazardous liquid or carbon dioxide pipeline facility, or a liquefied natural gas facility that meets the applicability requirements in § 190.403, PHMSA may require the applicant proposing the project to pay the costs incurred by PHMSA relating to such review, including the cost of design and construction safety reviews or inspections.

§ 190.403 Applicability.

The following paragraph specifies which projects will be subject to the cost recovery requirements of this section.

(a) This section applies to any project that—

(1) Has design and construction costs totaling at least $2,500,000,000, as periodically adjusted by PHMSA, to take into account increases in the Consumer Price Index for all urban consumers published by the Department of Labor, based on—

(i) The cost estimate provided to the Federal Energy Regulatory Commission in an application for a certificate of public convenience and necessity for a gas pipeline facility or an application for authorization for a liquefied natural gas pipeline facility; or

(ii) A good faith estimate developed by the applicant proposing a hazardous liquid or carbon dioxide pipeline facility and submitted to the Associate Administrator. The good faith estimate for design and construction costs must include all of the applicable cost items contained in the Federal Energy Regulatory Commission application referenced in § 190.403(a)(1)(i) for a gas or LNG facility. In addition, an applicant must take into account all survey, design, material, permitting, right-of way acquisition, construction, testing, commissioning, start-up, construction financing, environmental protection, inspection, material transportation, sales tax, project contingency, and all other applicable costs, including all segments, facilities, and multi-year phases of the project;

(2) Uses new or novel technologies or design, as defined in § 190.3.

(b) The Associate Administrator may not collect design safety review fees under this section and 49 U.S.C. 60301 for the same design safety review.

(c) The Associate Administrator, after receipt of the design specifications, construction plans and procedures, and related materials, determines if cost recovery is necessary. The Associate Administrator's determination is based on the amount of PHMSA resources needed to ensure safety and environmental protection.

§ 190.405 Notification.

For any new pipeline facility construction project in which PHMSA will conduct a design review, the applicant proposing the project must notify PHMSA and provide the design specifications, construction plans and procedures, project schedule and related materials at least 120 days prior to the commencement of any of the following activities: Construction route surveys, permitting activities, material purchasing and manufacturing, right of way acquisition, offsite facility fabrications, construction equipment move-in activities, onsite or offsite fabrications, personnel support facility construction, and any offsite or onsite facility construction. To the maximum extent practicable, but not later than 90 days after receiving such design specifications, construction plans and procedures, and related materials, PHMSA will provide written comments, feedback, and guidance on the project.

§ 190.407 Master Agreement.

PHMSA and the applicant will enter into an agreement within 60 days after PHMSA received notification from the applicant provided in § 190.405, outlining PHMSA's recovery of the costs associated with the facility design safety review.

(a) A Master Agreement, at a minimum, includes:

(1) Itemized list of direct costs to be recovered by PHMSA;

(2) Scope of work for conducting the facility design safety review and an estimated total cost;

(3) Description of the method of periodic billing, payment, and auditing of cost recovery fees;

(4) Minimum account balance which the applicant must maintain with PHMSA at all times;

(5) Provisions for reconciling differences between total amount billed and the final cost of the design review, including provisions for returning any excess payments to the applicant at the conclusion of the project;

(6) A principal point of contact for both PHMSA and the applicant; and

(7) Provisions for terminating the agreement.

(8) A project reimbursement cost schedule based upon the project timing and scope.

(b) [Reserved]

§ 190.409 Fee structure.

The fee charged is based on the direct costs that PHMSA incurs in conducting the facility design safety review (including construction review and inspections), and will be based only on costs necessary for conducting the facility design safety review. ''Necessary for'' means that but for the facility design safety review, the costs would not have been incurred and that the costs cover only those activities and items without which the facility design safety review cannot be completed.

(a) Costs qualifying for cost recovery include, but are not limited to—

(1) Personnel costs based upon total cost to PHMSA;

(2) Travel, lodging and subsistence;

(3) Vehicle mileage;

(4) Other direct services, materials and supplies;

(5) Other direct costs as may be specified in the Master Agreement.

(b) [Reserved]

§ 190.411 Procedures for billing and payment of fee.

All PHMSA cost calculations for billing purposes are determined from the best available PHMSA records.

(a) PHMSA bills an applicant for cost recovery fees as specified in the Master Agreement, but the applicant will not be billed more frequently than quarterly.

(1) PHMSA will itemize cost recovery bills in sufficient detail to allow independent verification of calculations.

(2) [Reserved]

(b) PHMSA will monitor the applicant's account balance. Should the account balance fall below the required minimum balance specified in the Master Agreement, PHMSA may request at any time the applicant submit

payment within 30 days to maintain the minimum balance.

(c) PHMSA will provide an updated estimate of costs to the applicant on or near October 1st of each calendar year.

(d) Payment of cost recovery fees is due within 30 days of issuance of a bill for the fees. If payment is not made within 30 days, PHMSA may charge an annual rate of interest (as set by the Department of Treasury's Statutory Debt Collection Authorities) on any outstanding debt, as specified in the Master Agreement.

(e) Payment of the cost recovery fee by the applicant does not obligate or prevent PHMSA from taking any particular action during safety inspections on the project.

PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS

■ 6. The authority citation for part 191, as revised in 80 FR12762 (March 11, 2015), effective October 1, 2015, continues to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124, and 49 CFR 1.97.

■ 7. In § 191.3, add the definition ''Confirmed discovery'' in alphabetical order to read as follows:

§ 191.3 Definitions.

* * * * *

Confirmed discovery means there is sufficient information to determine that a reportable event may have occurred even if an evaluation has not been completed.

* * * * *

■ 8. In § 191.5, paragraph (a) is revised, paragraph (b)(5) is re-designated as paragraph (b)(6) and new paragraph (b)(5) and paragraph (c) are added to read as follows:

§ 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

(b) * * *

(5) The amount of product loss.

* * * * *

(c) Within 48 hours after the confirmed discovery of an incident, to the extent practicable, an operator must revise or confirm its initial telephonic notice required in paragraph (b) of this section with a revised estimate of the amount of product released, an estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.

■ 9. In § 191.22, paragraph (c)(1)(ii) is revised and paragraphs (c)(1)(iv) and (c)(1)(v) are added to read as follows:

§ 191.22 National Registry of Pipeline and LNG operators.

* * * * *

(c) * * *

(1) * * *

(ii) Construction of 10 or more miles of a new or replacement pipeline;

* * * * *

(iv) Reversal of product flow direction when the reversal is expected to last more than 30 days. This notification is not required for pipeline systems already designed for bi-directional flow; or

(v) A pipeline converted for service under § 192.14 of this chapter, or a change in commodity as reported on the annual report as required by § 191.17.

* * * * *

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 10. The authority citation for part 192, as revised in 80 FR 12762 (March 11, 2015), effective October 1, 2015, continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118, and 60137; and 49 CFR 1.97.

■ 11. In § 192.9, paragraph (c) is revised, paragraph (d)(8) is added, and the table in paragraph (e)(2) is revised to read as follows:

§ 192.9 What requirements apply to gathering lines?

* * * * *

(c) Type A lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this part applicable to transmission lines, except the requirements in § 192.150 and in subpart O of this part. An operator must establish and implement an operator qualification program in accordance with Subpart N of this part.

(d) * * *

(8) Establish and implement an operator qualification program in accordance with Subpart N of this part.

* * * * *

(e) * * *

(2) If a regulated onshore gathering line existing on April 14, 2006 was not previously subject to this part, an operator has until the date stated in the second column to comply with the applicable requirement for the line listed in the first column, unless the Administrator finds a later deadline is justified in a particular case:

Requirement	Compliance deadline
Control corrosion according to Subpart I requirements for transmission lines.	April 15, 2009.
Carry out a damage prevention program under § 192.614.	October 15, 2007.
Establish MAOP under § 192.619.	October 15, 2007.
Install and maintain line markers under § 192.707.	April 15, 2008.
Establish a public education program under § 192.616.	April 15, 2008.
Establish an operator qualification program according to Subpart N requirements if an operator of a Type A or Type B regulated onshore gathering line.	[date one year after publication of a final rule].
Other provisions of this part as required by paragraph (c) of this section for Type A lines.	April 15, 2009.

* * * * *

■ 12. In § 192.14, paragraph (c) is added to read as follows

§ 192.14 Conversion to service subject to this part.

* * * * *

(c) An operator converting a pipeline from service not previously covered by this part must notify PHMSA 60 days before the conversion occurs as required by § 191.22 of this chapter.

■ 13. In Section 192.175, paragraph (b) is revised to read as follows:

§ 192.175 Pipe-type and bottle-type holders.

* * * * *

(b) Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula:

C = (3D*P*F)/1000) in inches; (C = (3D*P*F*)/6,895) in millimeters in which:

C = Minimum clearance between pipe containers or bottles in inches (millimeters).

D = Outside diameter of pipe containers or bottles in inches (millimeters).

P = Maximum allowable operating pressure, psi (kPa) gauge.

F = Design factor as set forth in § 192.111 of this part.

■ 14. In § 192.225, paragraph (a) is revised to read as follows:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, *see* § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, *see* § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures must be determined by destructive testing in accordance with the applicable welding standard(s).

* * * * *

■ 15. In § 192.227, paragraph (a) is revised to read as follows:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, *see* § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, *see* § 192.7). However, a welder or welding operator qualified under an earlier edition than the listed in § 192.7 of this part may weld but may not requalify under that earlier edition.

* * * * *

■ 16. In § 192.631, paragraphs (b)(3), (b)(4), (h)(4) and (h)(5) are revised and paragraphs (b)(5) and (h)(6) are added to read as follows:

§ 192.631 Control room management.

* * * * *

(b) * * *

(3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others;

(4) A method of recording controller shift-changes and any hand-over of responsibility between controllers; and

(5) The roles, responsibilities and qualifications of others with the authority to direct or supersede the specific technical actions of a controller.

* * * * *

(h) * * *

(4) Training that will provide a controller a working knowledge of the pipeline system, especially during the development of abnormal operating conditions;

(5) For pipeline operating setups that are periodically, but infrequently used, providing an opportunity for controllers to review relevant procedures in advance of their application; and

(6) Control room team training and exercises that include both controllers and other individuals who would reasonably be expected to interact with controllers (control room personnel) during normal, abnormal or emergency situations.

* * * * *

■ 17. Section 192.740 is added to read as follows:

§ 192.740 Pressure regulating, limiting, and overpressure protection—Individual service lines originating on production, gathering, or transmission pipelines.

(a) This section applies, except as provided in paragraph (c) of this section, to any service line that originates from a production, gathering, or transmission pipeline that is not operated as part of a distribution system.

(b) Each pressure regulating/limiting device, relief device, automatic shutoff device, and associated equipment must be inspected and tested at least once every 3 calendar years, not exceeding 39 months, to determine that it is:

(1) In good mechanical condition;

(2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

(3) Set to control or relieve at the correct pressure consistent with the pressure limits of § 192.197; and to limit the pressure on the inlet of the service regulator to 60 psi (414 kPa) gage or less in case the upstream regulator fails to function properly; and

(4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

(c) This section does not apply to equipment installed on service lines that only serve engines that power irrigation pumps.

■ 18. Section 192.801 is revised to read as follows:

§ 192.801 Scope.

This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks as defined in § 192.803 on a pipeline facility.

■ 19. Section 192.803 is revised to read as follows:

§ 192.803 Definitions.

For purposes of the subpart the following definitions apply:

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(1) Indicate a condition exceeding design limits; or

(2) Result in a hazard(s) to persons, property, or the environment.

Adversely affects means a negative impact on the safety or integrity of the pipeline facilities.

Covered task means an activity identified by the operator that affects the safety or integrity of the pipeline facility. A covered task includes, but is not limited to, the performance of any operations, maintenance, construction or emergency response task.

Direct and observe means the process where a qualified individual personally observes the work activities of an individual not qualified to perform a single covered task, and is able to take immediate corrective action when necessary.

*Emergency response task*s are those identified operations and maintenance covered tasks that could reasonably be expected to be performed during an emergency to return the pipeline facilities to a safe operating condition.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

(1) Written examination;

(2) Oral examination;

(3) Work performance history review;

(4) Observation during;

(i) Performance on the job;

(ii) On the job training; or

(iii) Simulations; and

(5) Other forms of assessment

Knowledge, skills and abilities, as it applies to individuals performing a covered task, means that an individual can apply information to the performance of a covered task, has the ability to perform mental and physical activities developed or acquired through training, and has the mental and physical capacity to perform the covered task.

Qualified as it applies to an individual performing a covered task, means that an individual has been evaluated and can:

(1) Perform assigned covered tasks;

(2) Recognize and react to abnormal operating conditions that may be encountered while performing a particular covered task;

(3) Demonstrate technical knowledge required to perform the covered task, such as: equipment selection, maintenance of equipment, calibration and proper operation of equipment, including variations that may be encountered in the covered task performance due to equipment and environmental differences;

(4) Demonstrate the technical skills required to perform the covered task, for example:

(i) Variations required in the covered task performance due to equipment and/or new operations differences or changes;

(ii) Variations required in covered task performance due to conditions or context differences (*e.g.,* hot work versus work on evacuated pipeline); and

(5) Meet the physical abilities required to perform the specific covered task (*e.g.,* color vision or hearing).

Safety or integrity means the reliable condition of a pipeline facility (operationally sound or having the ability to withstand stresses imposed) affected by any operation, maintenance or construction task, and/or an emergency response.

Significant changes means the following as it relates to operator qualification:

(1) Wholesale changes to the program;

(2) Change in evaluation methods (*i.e.* performance and written to written only);

(3) Increases in evaluation intervals (*i.e.* from 1 to 5 years); or

(4) Removal of covered tasks (not including combining covered tasks).

Span of control means the ratio of nonqualified to qualified individuals where the nonqualified individual may be directed and observed by a qualified individual when performing a covered task, with consideration to complexity of the covered task and the operational conditions when performing the covered task.

■ 20. Section 192.805 is revised to read as follows:

§ 192.805 Qualification program.

(a) *General.* An operator must have and follow a written operator qualification program that meets the requirements of paragraph (b) of this section for all pipelines regulated under part 192. The written program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. chapter 601 if the program is under the authority of that state agency.

(b) *Program Requirements.* The operator qualification program must, at a minimum, include provisions to:

(1) Identify covered tasks;

(2) Complete the qualification of each individual performing a covered task prior to the individual performing the covered task;

(3) Ensure through evaluation that each individual performing a covered task is qualified to perform the covered task provided that:

(i) Review of work performance history is not used as a sole evaluation method.

(ii) Observation of on-the-job performance is not used as a sole method of evaluation. However, when on-the-job performance is used to complete an individual's competency for a covered task, the operator qualification procedure must define the measures used to determine successful completion of the on-the-job performance evaluation.

(4) Allow any individual who is not qualified to perform a covered task to perform the covered task if directed and observed by a qualified individual within the limitations of the established span of control for the particular covered task.

(5) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in part 191 of this chapter;

(6) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(7) Establish and maintain a Management of Change program that will communicate changes that affect covered tasks to individuals performing those covered tasks;

(8) Identify all covered tasks and the intervals at which evaluation of an individual's qualifications is needed;

(9) Provide training to ensure that any individual performing a covered task has the necessary knowledge, skills, and abilities to perform the task in a manner that ensures the safety and integrity of the operator's pipeline facilities;

(10) Provide supplemental training for the individual when procedures and specifications are changed for the covered task;

(11) Establish the requirements to be an Evaluator, including the necessary training; and

(12) Develop and implement a process to measure the program's effectiveness in accordance with § 192.805

(c) *Changes.* An operator must notify the Administrator or a State agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section. Notifications to PHMSA may be submitted by electronic mail to *InformationResourcesManager@dot.gov,* or by mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, New Jersey Avenue SE., Washington, DC 20590.

■ 21. Section 192.807 is revised to read as follows:

§ 192.807 Program effectiveness.

(a) *General.* The qualification program must include a written process to measure the program's effectiveness. An effective program minimizes human error caused by an individual's lack of knowledge, skills and abilities (KSAs) to perform covered tasks. An operator must conduct the program effectiveness review once each calendar year not to exceed 15 months.

(b) *Process.* The process to measure program effectiveness must:

(1) Evaluate if the qualification program is being implemented and executed as written; and

(2) Establish provisions to amend the program to include any changes necessary to address the findings of the program effectiveness review.

(c) *Measures.* The operator must develop program measures to determine the effectiveness of the qualification program. The operator must, at a minimum, include and use the following measures to evaluate the effectiveness of the program.

(1) Number of occurrences caused by any individual whose performance of a covered task(s) adversely affected the safety or integrity of the pipeline due to any of the following deficiencies:

(i) Evaluation was not conducted properly;

(ii) KSAs for the specific covered task(s) were not adequately determined;

(iii) Training was not adequate for the specific covered task(s);

(iv) Change made to a covered task or the KSAs was not adequately evaluated for necessary changes to training or evaluation;

(v) Change to a covered task(s) or the KSAs was not adequately communicated;

(vi) Individual failed to recognize an abnormal operating condition, whether it is task specific or non-task specific, which occurs anywhere on the system;

(vii) Individual failed to take the appropriate action following the recognition of an abnormal operating condition (task specific or non-task specific) that occurs anywhere on the system;

(viii) Individual was not qualified;

(ix) Nonqualified individual was not being directed and observed by a qualified individual;

(x) Individual did not follow approved procedures and/or use approved equipment;

(xi) Span of control was not followed;

(xii) Evaluator or training did not follow program or meet requirements; or

(xiii) The qualified individual supervised more than one covered task at the time.

(2) [Reserved]

■ 22. Section 192.809 is revised to read as follows:

§ 192.809 Recordkeeping.

Each operator must maintain records that demonstrate compliance with this subpart.

(a) *Individual qualification records.* Individual qualification records must include:

(1) Identification of qualified individual(s),

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification;

(4) Qualification method(s);

(5) Evaluation to recognize and react to an abnormal operating condition, whether it is task-specific non-task specific, which occurs anywhere on the system;

(6) Name of evaluator and date of evaluation; and

(7) Training required to support an individual's qualification or requalification.

(b) *Program records.* Program records must include, at a minimum, the following:

(1) Program effectiveness reviews;

(2) Program changes;

(3) List of program abnormal operating conditions;

(4) Program management of change notifications;

(5) Covered task list to include all task specific and non-task specific covered tasks;

(6) Span of control ratios for each covered task:

(7) Reevaluation intervals for each covered task;

(8) Evaluations method(s) for each covered task; and

(9) Criteria and training for evaluators.

(c) *Retention period*—(1) *Individual qualification records.* An operator must maintain records of qualified individuals who performed covered tasks. Records supporting an individual's current qualification must be retained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks must be retained for a period of five years.

(2) *Program records.* An operator must maintain records required by paragraph (b) of this section for a period of five years.

■ 23. Section 192.1003 is revised to read as follows:

§ 192.1003 What do the regulations in this subpart cover?

(a) *General.* Unless excepted in paragraph (b) of this section this subpart prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this part, including liquefied petroleum gas systems. A gas distribution operator, other than a master meter operator or a small LPG operator, must follow the requirements in §§ 192.1005 through 192.1013 of this subpart. A master meter operator or small LPG operator of a gas distribution pipeline must follow the requirements in § 192.1015 of this subpart.

(b) *Exceptions.* This subpart does not apply to a service line that originates directly from a transmission, gathering, or production pipeline.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 24. The authority citation for part 195, as revised in 80 FR12762 (March 11, 2015), effective October 1, 2015, continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118, 60137, and 49 CFR 1.97.

■ 25. In § 195.2, add the definitions ''Confirmed discovery,'' ''In-Line Inspection (ILI),'' ''In-Line Inspection Tool or Instrumented Internal Inspection Device,'' and ''Significant stress corrosion cracking'' in alphabetical order to read as follows:

§ 195.2 Definitions.

* * * * *

Confirmed discovery means there is sufficient information to determine that a reportable event may have occurred even if an evaluation has not been completed.

* * * * *

In-Line Inspection (ILI) means the inspection of a pipeline from the interior of the pipe using an in-line inspection tool. Also called *intelligent* or *smart pigging.*

In-Line Inspection Tool or *Instrumented Internal Inspection Device* means a device or vehicle that uses a non-destructive testing technique to inspect the pipeline from the inside. Also known as *intelligent* or *smart pig.*

* * * * *

Significant Stress Corrosion Cracking means a stress corrosion cracking (SCC) cluster in which the deepest crack, in a series of interacting cracks, is greater than 10% of the wall thickness and the total interacting length of the cracks is equal to or greater than 75% of the critical length of a 50% through-wall flaw that would fail at a stress level of 110% of SMYS.

* * * * *

■ 26. In § 195.3:

■ a. Add paragraph (b)(23);

■ b. Redesignate paragraphs (d) through (h) as (e) through (i) respectively and add a new paragraph (d); and

■ c. Add paragraphs (g)(3) and (4) to the newly redesignated paragraph (g).

The additions read as follows:

§ 195.3 Incorporation by reference.

* * * * *

(b) * * *

(23) API Standard 1163, ''In-Line Inspection Systems Qualification Standard'' 1st edition, August 2005, (API Std 1163), IBR approved for § 195.591.

* * * * *

(d) American Society for Nondestructive Testing, P.O. Box 28518, 1711 Arlingate Lane, Columbus, OH, 43228. *https://asnt.org.*

(1) ANSI/ASNT ILI–PQ–2010, ''In-line Inspection Personnel Qualification and Certification'' (2010), (ANSI/ASNT ILI–PQ), IBR approved for § 195.591.

(2) [Reserved]

* * * * *

(g) * * *

(3) NACE SP0102–2010, Standard Practice, ''Inline Inspection of Pipelines'' approved March 3, 2010, (NACE SP0102), IBR approved for § 195.591

(4) NACE SP0204–2008, Standard Practice, ''Stress Corrosion Cracking Direct Assessment'' approved September 18, 2008, (NACE SP0204), IBR approved for § 195.588(c).

■ 27. In § 195.5, paragraph (d) is added to read as follows:

§ 195.5 Conversion to service subject to this part.

* * * * *

(d) An operator converting a pipeline from service not previously covered by this part must notify PHMSA 60 days before the conversion occurs as required by § 195.64

■ 28. In § 195.11 paragraph (b)(11) is revised to read as follows:

§ 195.11 What is a regulated rural gathering line and what requirements apply?

* * * * *

(b) * * *

(11) Establish and implement an operator qualification program in accordance with Subpart G of this part before [DATE ONE YEAR AFTER DATE OF PUBLICATION OF A FINAL RULE IN THE **FEDERAL REGISTER**].

* * * * *

■ 29. In § 195.52, paragraph (a) introductory text and paragraph (d) are revised to read as follows:

§ 195.52 Immediate notice of certain accidents.

(a) *Notice requirements.* At the earliest practicable moment following discovery, of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in § 195.50, but no later than one hour after confirmed discovery, the operator of the system must give notice, in accordance with paragraph (b) of this section of any failure that:

* * * * *

(d) *New information.* Within 48 hours after the confirmed discovery of an accident, to the extent practicable, an operator must revise or confirm its initial telephonic notice required in paragraph (b) of this section with a revised estimate of the amount of product released, location of the failure, time of the failure, a revised estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the accident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.

§ 195.64 [Amended]

■ 30. In § 195.64, in paragraph (a), the term ''hazardous liquid'' is removed and replaced with the term ''hazardous liquid or carbon dioxide'' in the first sentence.

■ 31. In § 195.64, as amended at 80 FR 12762 (March 11, 2015), effective October 1, 2015, paragraph (c)(1)(ii) is revised and paragraphs (c)(1)(iii) and (c)(1)(iv) are added to read as follows:

§ 195.64 National Registry of Pipeline and LNG operators.

* * * * *

(c) * * *

(1) * * *

(ii) Construction of 10 or more miles of a new or replacement hazardous liquid or carbon dioxide pipeline;

(iii) Reversal of product flow direction when the reversal is expected to last more than 30 days. This notification is not required for pipeline systems already designed for bi-directional flow; or

(iv) A pipeline converted for service under § 195.5, or a change in commodity as reported on the annual report as required by § 195.49.

* * * * *

■ 32. In § 195.120, the title and paragraph (a) are revised to read as follows:

§ 195.120 Passage of In-Line Inspection tools.

(a) Except as provided in paragraphs (b) and (c) of this section, each new pipeline and each replacement of line pipe, valve, fitting, or other line component in a pipeline must be designed and constructed to accommodate the passage of an In-Line Inspection tool, in accordance with NACE SP0102–2010, Section 7 (incorporated by reference, *see* § 195.3).

* * * * *

■ 33. In § 195.214, as amended at 80 FR 12762 (March 11, 2015), effective October 1, 2015, paragraph (a) is revised to read as follows:

§ 195.214 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under Section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see § 195.3), or Section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, *see* § 195.3). The quality of the test welds used to qualify the welding procedures must be determined by destructive testing.

* * * * *

■ 34. In § 195.222, as amended at 80 FR 12762 (March 11, 2015), effective October 1, 2015, paragraph (a) is revised to read as follows:

§ 195.222 Welders and welding operators: Qualification of welders and welding operators.

(a) Each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, *see* § 195.3) or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC), (incorporated by reference, *see* § 195.3) except that a welder or welding operator qualified under an earlier edition than listed in § 195.3, may weld but may not requalify under that earlier edition.

* * * * *

§ 195.248 [Amended]

■ 35. In § 195.248, the phrase ''100 feet (30 millimeters)'' is removed and replaced with the phrase ''100 feet (30.5 meters)'' in the table to paragraph (a).

■ 36. In § 195.446, revise paragraphs (b)(3) and (b)(4), add paragraph (b)(5), revise paragraphs (h)(4) and (h)(5), and add paragraph (h)(6) to read as follows:

§ 195.446 Control room management.

* * * * *

(b) * * *

(3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others;

(4) A method of recording controller shift-changes and any hand-over of responsibility between controllers; and

(5) The roles, responsibilities and qualifications of others who have the authority to direct or supersede the specific technical actions of controllers.

* * * * *

(h) * * *

(4) Training that will provide a controller a working knowledge of the pipeline system, especially during the development of abnormal operating conditions;

(5) For pipeline operating setups that are periodically, but infrequently used, providing an opportunity for controllers to review relevant procedures in advance of their application; and

(6) Control room team training that includes both controllers and other individuals who would reasonably be expected to interact with controllers (control room personnel) during normal, abnormal or emergency situations.

* * * * *

■ 37. In § Section 195.452, paragraph (a)(4) is added, paragraphs (c)(1)(i)(A) and (j)(5)(i) are revised to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) * * *

(4) Low stress pipelines as specified in § 195.12.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) In-Line Inspection tool or tools capable of detecting corrosion, cracks, and deformation anomalies including dents, gouges and grooves. When performing an assessment using an In-Line Inspection Tool, an operator must comply with § 195.591;

* * * * *

(j) * * *

(5) * * *

(i) In-Line Inspection tool or tools capable of detecting corrosion, cracks, and deformation anomalies including dents, gouges and grooves. When performing an assessment using an In-Line Inspection tool, an operator must comply with § 195.591;

* * * * *

■ 38. Section 195.501 is revised to read as follows:

§ 195.501 Scope.

This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks as defined in § 195.503 on a pipeline facility.

■ 39. Section 195.503 is revised to read as follows:

§ 195.503 Definitions.

For purposes of this subpart the following definitions apply:

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(1) Indicate a condition exceeding design limits; or

(2) Result in a hazard(s) to persons, property, or the environment.

Adversely affects means a negative impact on the safety or integrity of the pipeline facilities.

Covered task means an activity identified by the operator that affects the safety or integrity of the pipeline facility. A covered task includes, but is not limited to, the performance of any operations, maintenance, construction or emergency response task

Direct and observe means the process where a qualified individual personally observes the work activities of an individual not qualified to perform a single covered task, and is able to take immediate corrective action when necessary.

*Emergency response task*s are those identified operations and maintenance covered tasks that could reasonably be expected to be performed during an emergency to return the pipeline facilities to a safe operating condition.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

(1) Written examination;

(2) Oral examination;

(3) Work performance history review;

(4) Observation during;

(i) Performance on the job;

(ii) On the job training; or

(iii) Simulations; and

(5) Other forms of assessment

Knowledge, skills and abilities, as it applies to individuals performing a covered task, means that an individual can apply information to the performance of a covered task, has the ability to perform mental and physical activities developed or acquired through training, and has the mental and physical capacity to perform the covered task.

Qualified as it applies to an individual performing a covered task, means that an individual has been evaluated and can:

(1) Perform assigned covered tasks;

(2) Recognize and react to abnormal operating conditions that may be encountered while performing a particular covered task;

(3) Demonstrate technical knowledge required to perform the covered task, such as: Equipment selection, maintenance of equipment, calibration and proper operation of equipment, including variations that may be encountered in the covered task performance due to equipment and environmental differences;

(4) Demonstrate the technical skills required to perform the covered task, for example:

(i) Variations required in the covered task performance due to equipment and/or new operations differences or changes;

(ii) Variations required in covered task performance due to conditions or context differences (*e.g.,* hot work versus work on evacuated pipeline); and

(5) Meet the physical abilities required to perform the specific covered task (*e.g.,* color vision or hearing).

Safety or integrity means the reliable condition of a pipeline facility (operationally sound or having the ability to withstand stresses imposed) affected by any operation, maintenance or construction task, and/or an emergency response.

Significant changes means the following as it relates to operator qualification:

(1) Wholesale changes to the program;

(2) Change in evaluation methods (*i.e.* performance and written to written only);

(3) Increases in evaluation intervals (*i.e.* from 1 to 5 years); or

(4) Removal of covered tasks (not including combining covered tasks).

Span of control means the ratio of nonqualified to qualified individuals where the nonqualified individual may be directed and observed by a qualified individual when performing a covered task, with consideration to complexity of the covered task and the operational conditions when performing the covered task.

■ 40. Section 195.505, as amended at 80 FR 12762 (March 11, 2015), effective October 1, 2015, is revised to read as follows:

§ 195.505 Qualification program.

(a) *General.* An operator must have and follow a written operator qualification program that meets the requirements of paragraph (b) of this section for all pipelines regulated under part 195. The written program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency.

(b) *Program requirements.* The operator qualification program must, at a minimum, include provisions to:

(1) Identify covered tasks;

(2) Complete the qualification of each individual performing a covered task prior to the individual performing the covered task;

(3)(i) Ensure through evaluation that each individual performing a covered task is qualified to perform the covered task provided that:

(A) Review of work performance history is not used as a sole evaluation method.

(B) Observation of on-the-job performance is not used as a sole method of evaluation. (ii) However, when on-the-job performance is used to complete an individual's competency for covered tasks, the operator qualification procedure must define the measures used to determine successful completion of the on-the-job performance evaluation.

(4) Allow any individual who is not qualified pursuant to this subpart to perform a covered task if directed and observed by a qualified individual within the limitations of the established span of control for the particular covered task;

(5) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in § 195.52;

(6) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

(7) Establish and maintain a Management of Change program that will communicate changes that affect covered tasks to individuals performing those covered tasks;

(8) Identify all covered tasks and the intervals at which evaluation of an individual's qualifications is needed;

(9) Provide training to ensure that any individual performing a covered task has the necessary knowledge, skills, and abilities to perform the task in a manner that ensures the safety and integrity of the operator's pipeline facilities;

(10) Provide supplemental training for the individual when procedures and specifications are changed for the covered task;

(11) Establish the requirements to be an Evaluator, including the necessary training; and

(12) Develop and implement a process to measure the program's effectiveness in accordance with § 195.505

(c) *Changes.* An operator must notify the Administrator or a State agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section. Notifications to PHMSA may be submitted by electronic mail to *InformationResourcesManager@dot.gov,* or by mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22–321, New Jersey Avenue SE., Washington, DC 20590.

■ 41. Section 195.507 is revised to read as follows:

§ 195.507 Program effectiveness.

(a) *General.* The qualification program must include a written process to measure the program's effectiveness. An effective program minimizes human error caused by an individual's lack of knowledge, skills and abilities (KSAs) to perform covered tasks. An operator must conduct the program effectiveness review once each calendar year not to exceed 15 months.

(b) *Process.* The process to measure program effectiveness must:

(1) Evaluate if the qualification program is being implemented and executed as written; and

(2) Establish provisions to amend the program to include any changes necessary to address the findings of the program effectiveness review.

(c) *Measures.* The operator must develop program measures to determine the effectiveness of the qualification program. The operator must, at a minimum, include and use the following measures to evaluate the effectiveness of the program.

(1) Number of occurrences caused by any individual whose performance of a covered task(s) adversely affected the safety or integrity of the pipeline due to any of the following deficiencies:

(i) Evaluation was not conducted properly;

(ii) KSAs for the specific covered task(s) were not adequately determined;

(iii) Training was not adequate for the specific covered task(s);

(iv) Change made to a covered task or the KSAs was not adequately evaluated for necessary changes to training or evaluation;

(v) Change to a covered task(s) or the KSAs was not adequately communicated;

(vi) Individual failed to recognize an abnormal operating condition, whether it is task-specific or non-task specific, which occurs anywhere on the system;

(vii) Individual failed to take the appropriate action following the recognition of an abnormal operating condition (task-specific or non-task-specific) that occurs anywhere on the system;

(viii) Individual was not qualified;

(ix) Nonqualified individual was not being directed and observed by a qualified individual;

(x) Individual did not follow approved procedures and/or use approved equipment;

(xi) Span of control was not followed;

(xii) Evaluator or training did not follow program or meet requirements; or

(xiii) The qualified individual supervised more than one covered task at the time.

(2) [Reserved]

■ 42. Section 195.509 is revised to read as follows:

§ 195.509 Recordkeeping.

Each operator must maintain records that demonstrate compliance with this subpart.

(a) *Individual qualification records.* Individual qualification records must include at a minimum:

(1) Identification of qualified individual(s),

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification;

(4) Qualification method(s);

(5) Evaluation to recognize and react to an abnormal operating condition, whether it is task-specific or non-task-specific, which occurs anywhere on the system;

(6) Name of evaluator and date of evaluation; and

(7) Training required to support an individual's qualification or requalification.

(b) *Program records.* Program records must include, at a minimum, the following:

(1) Program effectiveness reviews;

(2) Program changes;

(3) List of program abnormal operating conditions;

(4) Program management of change notifications;

(5) Covered task list to include all task-specific and non-task specific covered tasks;

(6) Span of control ratios for each covered task:

(7) Reevaluation intervals for each covered task;

(8) Evaluations method(s) for each covered task; and

(9) Criteria and training for evaluators.

(c) *Retention period*—(i) *Individual qualification records.* An operator must maintain records of qualified individuals who performed covered tasks. Records supporting an individual's current qualification must be retained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks must be retained for a period of five years.

(ii) *Program records.* An operator must maintain records as required in paragraph (b) of this section for a period of five years.

■ 43. In § 195.588, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 195.588 What standards apply to direct assessment?

(a) If you use direct assessment on an onshore pipeline to evaluate the effects of external corrosion or stress corrosion cracking, you must follow the requirements of this section. This section does not apply to methods associated with direct assessment, such as close interval surveys, voltage gradient surveys, or examination of exposed pipelines, when used separately from the direct assessment process.

* * * * *

(c) If you use direct assessment on an onshore pipeline to evaluate the effects of stress corrosion cracking, you must develop and follow a Stress Corrosion Cracking Direct Assessment plan that meets all requirements and recommendations of NACE SP0204–2008 (incorporated by reference, *see* § 195.3) and that implements all four steps of the Stress Corrosion Cracking Direct Assessment process including pre-assessment, indirect inspection, detailed examination and post-assessment. As specified in NACE SP0204–2008, Section 1.1.7, Stress Corrosion Cracking Direct Assessment is complementary with other inspection methods such as in-line inspection or hydrostatic testing and is not necessarily an alternative or replacement for these methods in all instances. In addition, the plan must provide for—

(1) *Data gathering and integration.* An operator's plan must provide for a systematic process to collect and evaluate data to identify whether the conditions for stress corrosion cracking are present and to prioritize the segments for assessment in accordance with NACE SP0204–2008, Sections 3 and 4, and Table 1. This process must also include gathering and evaluating data related to SCC at all sites an operator excavates during the conduct of its pipeline operations (both within and outside covered segments) where the criteria in NACE SP0204–2008

indicate the potential for Stress Corrosion Cracking Direct Assessment. This data gathering process must be conducted in accordance with NACE SP0204–2008, Section 5.3, and must include, at a minimum, all data listed in NACE SP0204–2008, Table 2. Further, an operator must analyze the following factors as part of this evaluation:

(i) The effects of a carbonate-bicarbonate environment, including the implications of any factors that promote the production of a carbonate-bicarbonate environment such as soil temperature, moisture, factors that affect the rate of carbon dioxide generation, and/or cathodic protection.

(ii) The effects of cyclic loading conditions on the susceptibility and propagation of SCC in both high-pH and near-neutral-pH environments.

(iii) The effects of variations in applied cathodic protection such as overprotection, cathodic protection loss for extended periods, and high negative potentials.

(iv) The effects of coatings that shield cathodic protection when disbonded from the pipe.

(v) Other factors that affect the mechanistic properties associated with SCC including but not limited to operating pressures, high tensile residual stresses, and the presence of sulfides.

(2) *Indirect inspection.* In addition to the requirements and recommendations of NACE SP0204–2008, Section 4, the plan's procedures for indirect inspection must include provisions for conducting at least two different, but complementary, indirect assessment electrical surveys, and the basis on the selections as the most appropriate for the pipeline segment based on the data gathering and integration step.

(3) *Direct examination.* In addition to the requirements and recommendations of NACE SP0204–2008, Section 5, the plan's procedures for direct examination must provide for conducting a minimum of four direct examinations within the SCC segment at locations determined to be the most likely for SCC to occur.

(4) *Remediation and mitigation.* If any indication of SCC is discovered in a segment, an operator must mitigate the threat in accordance with one of the following applicable methods:

(i) Non-significant SCC, as defined by NACE SP0204–2008, may be mitigated by either hydrostatic testing in accordance with paragraph (b)(4)(ii) of this section, or by grinding out with verification by Non-Destructive Examination (NDE) methods that the SCC defect is removed and repairing the pipe. If grinding is used for repair, the remaining strength of the pipe at the repair location must be determined using ASME/ANSI B31G or RSTRENG and must be sufficient to meet the design requirements of subpart C of this part.

(ii) Significant SCC must be mitigated using a hydrostatic testing program with a minimum test pressure between 100% up to 110% of the specified minimum yield strength of the pipe for a 30 minute spike test immediately followed by a pressure test in accordance with subpart E of this part. The test pressure for the entire sequence must be continuously maintained for at least 8 hours, in accordance with subpart E of this part. Any test failures due to SCC must be repaired by replacement of the pipe segment, and the segment retested until the pipe passes the complete test without leakage. Pipe segments that have SCC present, but that pass the pressure test, may be repaired by grinding in accordance with paragraph (c)(4)(i) of this section.

(5) *Post assessment.* In addition to the requirements and recommendations of NACE SP0204–2008, sections 6.3, periodic reassessment, and 6.4, effectiveness of Stress Corrosion Cracking Direct Assessment, the plan's procedures for post assessment must include development of a reassessment plan based on the susceptibility of the operator's pipe to Stress Corrosion Cracking as well as on the behavior mechanism of identified cracking. Factors to be considered include, but are not limited to:

(i) Evaluation of discovered crack clusters during the direct examination step in accordance with NACE SP0204–2008, sections 5.3.5.7, 5.4, and 5.5;

(ii) Conditions conducive to creation of the carbonate-bicarbonate environment;

(iii) Conditions in the application (or loss) of cathodic protection that can create or exacerbate SCC;

(iv) Operating temperature and pressure conditions;

(v) Cyclic loading conditions;

(vi) Conditions that influence crack initiation and growth rates;

(vii) The effects of interacting crack clusters;

(viii) The presence of sulfides; and

(ix) Disbonded coatings that shield CP from the pipe.

■ 44. Section 195.591 is added to read as follows:

§ 195.591 In-Line inspection of pipelines.

When conducting in-line inspection of pipelines required by this part, each operator must comply with the requirements and recommendations of API STD 1163–2005, *Inline Inspection Systems Qualification Standard;* ANSI/ASNT ILI–PQ–2010, *Inline Inspection Personnel Qualification and Certification;* and NACE SP0102–2010, *Inline Inspection of Pipelines* (incorporated by reference, see § 195.3). An in-line inspection may also be conducted using tethered or remote control tools provided they generally comply with those sections of NACE SP0102–2010 that are applicable.

PART 199—DRUG AND ALCOHOL TESTING

■ 45. The authority citation for part 199 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.97.

■ 47. In § 199.105, paragraph (b) is revised to read as follows:

§ 199.105 Drug tests required.

* * * * *

(b) *Post-accident testing.* (1) As soon as possible but no later than 32 hours after an accident, an operator must drug test each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident or because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

(2) If a test required by this section is not administered within the 32 hours following the accident, the operator must prepare and maintain its decision stating the reasons why the test was not promptly administered. If a test required by paragraph (b)(1) of this section is not administered within 32 hours following the accident, the operator must cease attempts to administer a drug test and must state in the record the reasons for not administering the test.

* * * * *

■ 47. In § 199.117, paragraph (a)(5) is added to read as follows:

§ 199.117 Recordkeeping.

(a) * * *

(5) Records of decisions not to administer post-accident employee drug tests must be kept for at least 3 years.

* * * * *

■ 48. In § 199.119, paragraphs (a) and (b) are revised to read as follows:

§ 199.119 Reporting of anti-drug testing results.

(a) Each large operator (having more than 50 covered employees) must submit an annual Management Information System (MIS) report to PHMSA of its anti-drug testing using the MIS form and instructions as required by 49 CFR part 40 (at § 40.26 and appendix H to part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator may require by notice in the PHMSA Portal (*https://portal.phmsa.dot.gov/phmsaportallanding*) that small operators (50 or fewer covered employees), not otherwise required to submit annual MIS reports, to prepare and submit such reports to PHMSA.

(b) Each report required under this section must be submitted electronically at *http://damis.dot.gov.* An operator may obtain the user name and password needed for electronic reporting from the PHMSA Portal (*https://portal.phmsa.dot.gov/phmsaportallanding*). If electronic reporting imposes an undue burden and hardship, the operator may submit a written request for an alternative reporting method to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. The request must describe the undue burden and hardship. PHMSA will review the request and may authorize, in writing, an alternative reporting method. An authorization will state the period for which it is valid, which may be indefinite. An operator must contact PHMSA at 202–366–8075, or electronically to *informationresourcesmanager@dot.gov* to make arrangements for submitting a report that is due after a request for alternative reporting is submitted but before an authorization or denial is received.

* * * * *

■ 49. In § 199.225, the introductory text and paragraph (a)(1) are revised to read as follows:

§ 199.225 Alcohol tests required.

Each operator must conduct the following types of alcohol tests for the presence of alcohol:

(a) * * *

(1) As soon as practicable following an accident, each operator must test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

* * * * *

■ 50. In § 199.227, paragraph (b)(4) is added to read as follows:

§ 199.227 Retention of records.

* * * * *

(b) * * *

(4) *Three years.* Records of decisions not to administer post-accident employee alcohol tests must be kept for a minimum of three years.

* * * * *

■ 51. In § 199.229, paragraphs (a) and (c) are revised as follows:

§ 199.229 Reporting of alcohol testing results.

(a) Each large operator (having more than 50 covered employees) must submit an annual MIS report to PHMSA of its alcohol testing results using the MIS form and instructions as required by 49 CFR part 40 (at § 40.26 and appendix H to part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator may require by notice in the PHMSA Portal (*https://portal.phmsa.dot.gov/phmsaportallanding*) that small operators (50 or fewer covered employees), not otherwise required to submit annual MIS reports, to prepare and submit such reports to PHMSA.

* * * * *

(c) Each report required under this section must be submitted electronically at *http://damis.dot.gov.* An operator may obtain the user name and password needed for electronic reporting from the PHMSA Portal (*https://portal.phmsa.dot.gov/phmsaportallanding*). If electronic reporting imposes an undue burden and hardship, the operator may submit a written request for an alternative reporting method to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. The request must describe the undue burden and hardship. PHMSA will review the request and may authorize, in writing, an alternative reporting method. An authorization will state the period for which it is valid, which may be indefinite. An operator must contact PHMSA at 202–366–8075, or electronically to *informationresourcesmanager@dot.gov* to make arrangements for submitting a report that is due after a request for alternative reporting is submitted but before an authorization or denial is received.

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Issued in Washington, DC, on June 26, 2015, under authority delegated in 49 CFR part 1.97.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

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