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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0384; Airspace Docket No. 17–ASO–14]

Amendment of Class D and Class E Airspace; Elizabeth City, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Notice to Airmen (NOTAM) part-time status from the legal description of the Class E airspace area designated as an extension at Elizabeth City CGAS/Regional Airport, Elizabeth City, NC, and adds NOTAM part-time language information to Class E surface area airspace. This action brings the airspace descriptions in line with the airspace hours listed in the applicable Chart Supplement. This action also updates the geographic coordinates of the airport and the Woodville non-directional radio beacon (NDB) in the associated Class D and E airspace. Also, an editorial change is made to the Class D and E surface area airspace legal descriptions, replacing Airport/Facility Directory with the term Chart Supplement.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202)–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202)–741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E airspace at Elizabeth City CGAS/Regional Airport, Elizabeth City, NC, to ensure the efficient use of airspace within the National Airspace System.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 33837, July 21, 2017) Docket No. FAA–2016–0384 to amend Class D airspace, Class E surface area airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet or more above the surface at Elizabeth City CGAS/Regional Airport, Elizabeth City, NC.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class D airspace, Class E surface area airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet or more above the surface at Elizabeth City CGAS/Regional Airport, Elizabeth City, NC. The NOTAM part-time status is removed from the Class E airspace area designated as an extension to a Class D surface area.

For the associated Class D and E airspace areas, the geographic coordinates of the airport and Woodville NDB are adjusted to coincide with the FAAs aeronautical database.

Also, this action replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D and E airspace legal descriptions.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D Elizabeth City, NC [Amended]

Elizabeth City CGAS/Regional Airport, NC
(Lat. 36°15′38″ N., long. 76°10′28″ W.)

That airspace extending upward from the surface to and including 2,500 feet within a 4.1–mile radius of Elizabeth City CGAS/Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

ASO NC E2 Elizabeth City, NC [Amended]

Elizabeth City CGAS/Regional Airport, NC
(Lat. 36°15′38″ N., long. 76°10′28″ W.)

Within a 4.1–mile radius of Elizabeth City CGAS/Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO NC E4 Elizabeth City, NC [Amended]

Elizabeth City CGAS/Regional Airport, NC
(Lat. 36°15′38″ N., long. 76°10′28″ W.)
Elizabeth City VOR/DME
(Lat. 36°15′27″ N., long. 76°10′32″ W.)
Woodville NDB
(Lat. 36°15′47″ N., long. 76°17′53″ W.)

That airspace extending upward from the surface within 1.6 miles each side of Elizabeth City VOR/DME 189° radial, extending from the 4.1–mile radius of Elizabeth City CGAS/Regional Airport to 9.5 miles south of the VOR/DME; within 3.3 miles each side of Elizabeth City VOR/DME 357° radial, extending from the 4.1–mile radius of Elizabeth City CGAS/Regional Airport to 7 miles north of the VOR/DME; within 1.2 miles each side of the 079° bearing from the Woodville NDB, extending from 4.1–mile radius of the airport to the NDB.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Elizabeth City, NC [Amended]

Elizabeth City CGAS/Regional Airport, NC
(Lat. 36°15′38″ N., long. 76°10′28″ W.)
Elizabeth City VOR/DME
(Lat. 36°15′27″ N., long. 76°10′32″ W.)

That airspace extending upward from 700 feet above the surface within a 7–mile radius of Elizabeth City CGAS/Regional Airport, and within 8 miles east and 4 miles west of Elizabeth City VOR/DME 189° radial, extending from the VOR/DME to 9.5 miles south of the VOR/DME.

Issued in College Park, Georgia, on October 4, 2017.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–22118 Filed 10–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0388; Airspace Docket No. 17–AGL–13]

Amendment of Class E Airspace; Medford, WI and Waupaca, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Taylor County Airport, Medford, WI and Waupaca Municipal Airport, Waupaca, WI, to accommodate new standard instrument approach procedures for instrument flight rules (IFR) operations at these airports. This action is necessary due to the decommissioning of the Medford and Waupaca non directional radio beacons (NDB), and cancellation of NDB approaches. Also, an error in the geographic coordinates of Waupaca Municipal Airport and Taylor County Airport are corrected. This action enhances the safety and management of IFR operations at these airports.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Walter Tweedy, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5900.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace to support IFR operations at Taylor County and Waupaca Municipal airports.

History

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (82 FR 26408, June 7, 2017) Docket No. FAA–2017–0388 to modify Class E airspace extending upward from 700 feet above the surface at Taylor County Airport, Medford, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA found the geographic coordinates for Waupaca Municipal Airport, Waupaca, WI, were incorrect and makes the correction in this rule. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface from the 6.8-mile radius of Taylor County Airport, Medford, WI by removing the segment within 2.7 miles each side of the 162° bearing from the airport extending from the 6.8-mile radius to 7 miles southeast of the airport due to the decommissioning of the Medford NDB and cancellation of the NDB approach.

This action also modifies Class E airspace extending upward from 700 feet above the surface at Waupaca Municipal Airport, Waupaca, WI to within a 6.6-mile (from a 6.4-mile) radius of the airport and removes the segment within 2.7 miles each side of the 118° bearing from the airport, extending from the 6.4-mile radius to 7 miles southeast of the airport due to the decommissioning of the Waupaca NDB and cancellation of the NDB approach. Also, the geographic coordinates are corrected to be in concert with the FAA's aeronautical database.

This action enhances the safety and management of standard instrument approach procedures for IFR operations at these airports.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 Medford, WI [Amended]

Taylor County Airport, WI
(Lat. 45°06′05″ N., long. 90°18′01″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Taylor County Airport.

* * * * *

AGL WI E5 Waupaca, WI [Amended]

Waupaca Municipal Airport, WI
(Lat. 44°20′00″ N., long. 89°01′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Waupaca Municipal Airport.

Issued in Fort Worth, Texas, on October 5, 2017.

Christopher L. Southerland,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–22119 Filed 10–12–17; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's

regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in November 2017. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective November 1, 2017.

FOR FURTHER INFORMATION CONTACT: Daniel S. Liebman (*liebman.daniel@pbgc.gov*), Acting Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4400 ext. 6510. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 6510.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for November 2017.[1]

The November 2017 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for October 2017, these assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during November 2017, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication. PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 289 is added to the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
289	11–1–17	12–1–17	0.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 289 is added to the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
289	11–1–17	12–1–17	0.75	4.00	4.00	4.00	7	8

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Issued in Washington, DC.

Daniel S. Liebman,

Acting Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–22124 Filed 10–12–17; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0968]

Special Local Regulation; Fautasi Ocean Challenge Canoe Race, Pago Pago Harbor, American Samoa

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a Special Local Regulation for the Fautasi Ocean Challenge Canoe Race on the dates of November 10, 17, and 24, 2017, to safeguard the participants and spectators, including all crews, vessels, and persons on the water in Pago Pago Harbor during the event. This regulation will functionally close the port to vessel traffic during the race, but will not require the evacuation of any vessels from the harbor. Entry into, transiting, or anchoring in the harbor will be prohibited to all vessels not registered with the sponsor as participants or not part of the race patrol, unless specifically authorized by the Captain of the Port (COTP) Honolulu or a designated representative. Vessels that are already moored or anchored in the harbor seeking permission to remain there shall request permission from the COTP unless deemed a spectator vessel that is moored to a waterfront facility within the regulated area.

DATES: The regulations in 33 CFR 100.1401 will be enforced from 7:00 a.m. to 4:00 p.m. on the dates of November 10, 17, and 24, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Commander John Bannon, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541–4359, email *john.e.bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a Special Local Regulation in 33 CFR 100.1401 for the Fautasi Ocean Challenge Canoe Race from 7:00 a.m. to 4:00 p.m. on the dates of November 10, 17, and 24, 2017. This action is being taken to safeguard the participants and spectators, including all crews, vessels, and persons on the water in Pago Pago Harbor during the event. This regulation for the marine events, which will encompass portions of Pago Pago Harbor. During the enforcement periods, as reflected in 33 CFR 100.1401(c), if you are the operator of a vessel in the regulated area you must comply with directions from the Captain of the Port (COTP) Honolulu or a designated representative.

This notice of enforcement is issued under authority of 33 CFR 100 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners.

Dated: October 6, 2017.

M.C. Long,

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

[FR Doc. 2017–22191 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0960]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, in Portland, OR. The deviation is necessary to support the Annual Run Like Hell Half Marathon event. This deviation allows the upper lift span of the bridge to remain in the closed-to-navigation position to ensure the safety of construction crew members.

DATES: This deviation is effective from 8 a.m. until 11:30 a.m. on October 22, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0960, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Company (UPRR), bridge owner, has requested a temporary deviation from the operating schedule for the Steel Bridge across the Willamette River, at mile 12.1, in Portland, OR. The deviation is necessary to accommodate the Annual Run Like Hell Half Marathon event. The City of Portland is sponsoring the race and event. The Steel Bridge is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. To facilitate this paving operation, the upper deck will remain in the closed-to-navigation position. When the lower deck is in the closed-to-navigation position, the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0; and in open-to-navigation position, the vertical clearance is 71 feet above Columbia River Datum 0.0. The deviation period is from 8 a.m. to 11:30 a.m. on October 22, 2017. The lower deck for the Steel Bridge will continue to operate in accordance with 33 CFR 117.897(c)(3)(ii), and at the end of this deviation period, the upper deck of the Steel Bridge will resume operating in accordance with 33 CFR 117.897(c)(3)(ii).

Waterway usage on this part of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Vessels able to pass through the bridge with the lower deck in the open-to-navigation position or upper deck in the closed-to-navigation position may do so at anytime. The upper lift and lower lift of the Steel Bridge will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard has conducted public outreach regarding this closure of the upper deck on the subject bridge to known mariners that transit on the river. The Coast Guard has not received any objections to this temporary deviation from the operating schedule. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 5, 2017.

Steven Michael Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2017–22169 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0228]

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal and South Branch of the Chicago River between mile marker 318.9 and mile marker 321.9 from 7 a.m. until 2 p.m. on October 29, 2017. This action is necessary to protect the waterway and vessels from the potential hazards associated with a rowing competition.

DATES: The regulations in 33 CFR 165.930 will be enforced from 7 a.m. until 2 p.m. on October 29, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Chicago Sanitary and Ship Canal and South Branch of the Chicago River between mile marker 318.9 and mile marker 321.9. Enforcement will occur from 7 a.m. until 2 p.m. on October 29, 2017. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan or a Captain of the Port Lake Michigan designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan will also provide notice through other means, which will include Broadcast Notice to Mariners, Local Notice to Mariners, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic and email notifications. If the Captain of the Port or a designated representative determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: October 6, 2017.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2017–22227 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0917]

RIN 1625–AA00

Safety Zone; Main Branch of the Chicago River, Oktoberfest, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Main Branch of the Chicago River, Chicago, IL. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and after a bridge based pyrotechnics display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Lake Michigan.

DATES: This rule is effective from 7:15 p.m. through 7:45 p.m. on October 13, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0917 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT John Ramos, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 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. The Coast Guard did not receive the final details for this event until there was insufficient time remaining before the event to publish a NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with bridge based fireworks displays on October 13, 2017.

We are issuing this rule, and 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**. For the same reasons discussed in the preceding paragraph,

waiting for a 30-day notice period to run would be impracticable.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On October 13, 2017 a bridge based pyrotechnics display will take place on the Main Branch of the Chicago River between the Wells Street Bridge and the Wabash Avenue Bridge in Chicago, IL. The Captain of the Port Lake Michigan has determined that the pyrotechnics display will pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels.

IV. Discussion of the Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of the public during the bridge based pyrotechnics displays on the Main Branch of the Chicago River. This safety zone will be enforced from 7:15 p.m. through 7:45 p.m. on October 13, 2017. This zone will encompass all waters of the Main Branch of the Chicago River between the Wells Street Bridge and the Wabash Avenue Bridge in Chicago, IL.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or a designated on-scene representative. The Captain of the Port or a designated on-scene representative may be contacted via VHF Channel 16 or contact Sector Lake Michigan at (414) 747–7182.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

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 from 7:15 p.m. through 7:45 p.m. on October 13, 2017. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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.

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on 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 on a portion of the Main Branch of the Chicago River from 7:15 p.m. through 7:45 p.m. on October 13, 2017.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section above. Additionally, before the enforcement of the zone, we will issue local Broadcast Notice to Mariners and Local Notice to Mariners so vessel owners and operators can plan accordingly.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you

believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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.

F. 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 (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 for a bridge based pyrotechnics display on the Main Branch of the Chicago River in Chicago, IL. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. 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.

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 parts 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.T09–0917 to read as follows:

§ 165.T09–0614 Safety Zone; Main Branch of the Chicago River, Oktoberfest, Chicago, IL.

(a) *Location.* All U.S. navigable waters of the Main Branch of the Chicago River, between the Wells Street Bridge and Wabash Avenue Bridge in Chicago, IL.

(b) *Enforcement period.* This rule will be enforced from 7:15 p.m. through 7:45 p.m. on October 13, 2017.

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

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

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or an on-scene representative to obtain permission to do so.

The Captain of the Port Lake Michigan or an on-scene representative may be contacted via VHF Channel 16 or contact Sector Lake Michigan at (414) 747–7182. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan, or an on-scene representative.

Dated: October 5, 2017.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2017–22219 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0942]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, St. Louis, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Upper Mississippi River between mile marker (MM) 183.7 and MM 185.1. This temporary safety zone is necessary to provide for the safety of life and property on all navigable waters near St. Louis, MO for dredging being conducted in the navigational channel at the lower entrance of the Chain of Rocks Canal by the U.S. Army Corps of Engineers. During the period of enforcement, entry into the safety zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or other designated representative.

DATES: This rule is effective without actual notice from October 13, 2017 through 7 a.m. on October 21, 2017. For the purposes of enforcement, actual notice will be used from 5 p.m. on October 8, 2017 through October 13, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0942 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2332, email *Sean.M.Peterson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 it is impracticable.

The U.S. Army Corps of Engineers notified the Coast Guard on September 28, 2017 that dredging would begin October 8, 2017 at 5 p.m. at the lower entrance to the Chain of Rocks Canal, which would obstruct the navigational channel to vessel traffic. Due to the risks associated with this work in the navigational channel, a safety zone is needed. We must establish this temporary safety zone by October 8, 2017 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of the rule is contrary to the public interest because immediate action is necessary to prevent possible loss of life and property from the hazards associated with dredging in the navigational channel.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with dredging in the navigational channel from 5 p.m. on October 8, 2017 through 7 a.m. on October 21, 2017 will be a safety concern for all navigable waters of the Upper Mississippi River between mile marker (MM) 183.7 and MM 185.1. The purpose of this rule is to ensure safety of life on the navigable waters in the temporary safety zone before, during, and after the dredging.

IV. Discussion of the Rule

This rule establishes a safety zone each day from 5 p.m. to 7 a.m. beginning on October 8, 2017 and ending on October 21, 2017, or until conditions allow for safe navigation, whichever occurs earlier. The safety zone will cover all navigable waters between MM 183.7 and MM 185.1 on the Upper Mississippi River in St. Louis, MO. The safety zone is intended to ensure the safety of vessels and these navigable waters during channel dredging operations. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Exact times of the closures and any changes to the planned schedule will be communicated to mariners using Broadcast and Local Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This temporary final rule establishes a safety zone impacting a mile and a half area on the Upper Mississippi River for a limited time period of fourteen hours on fourteen separate days. During the enforcement period, vessels are prohibited from entering into or remaining within the safety zone unless specifically authorized by the COTP or other designated representative.

Additionally, notice of the safety zone or any changes in the planned schedule will be made via Broadcast and Local Notice to Mariners. Entry into this safety zone may be requested from the COTP or other designated representative and will be considered on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding these rules. 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.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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.

F. 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 (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 a safety zone lasting fourteen hours on fourteen separate nights that will prohibit entry from MM 183.7 to MM 185.1 on the UMR from October 8, 2017 to October 21, 2017. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. 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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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.T08–0942 to read as follows:

§ 165.08–0942 Safety Zone; Upper Mississippi River, St. Louis, MO.

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River between mile marker (MM) 183.7 to MM 185.1, St. Louis, MO.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Upper Mississippi River (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23 of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or a designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16, or through Coast Guard Sector Upper Mississippi River by telephone at 314–269–2332. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or a designated representative.

(d) *Enforcement period.* This section will be enforced from 5 p.m. on October 8, 2017, through 7 a.m. on October 21, 2017. It will be enforced daily from 5 p.m. through 7 a.m.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the dates and times of enforcement.

Dated: October 6, 2017.

Scott A. Stoermer,

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

[FR Doc. 2017–22168 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0947]

RIN 1625–AA00

Safety Zone, Delaware River; Dredging

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in portions of New Castle Range and Cherry Island Range on the Delaware River as well as the Christina River in order to facilitate the annual maintenance dredging of the Federal Navigation Channel. The safety zones will be established for the waters in the vicinity of the dredge, dredge equipment, and associated pipeline. This regulation is necessary to provide for the safety of life on navigable waters of the Delaware River and the Christina River in the vicinity of dredging activity and is intended to protect mariners from the hazards associated with pipe-laying and dredging operations.

DATES: This rule is effective without actual notice from October 13, 2017 through January 10, 2018. For the purposes of enforcement, actual notice will be used from October 6, 2017, through October 13, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0947 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Edmund Ofalt, Waterways Management Branch, U.S. Coast Guard Sector Delaware Bay; telephone (215) 271–4814, email *Edmund.J.Ofalt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 Sector Delaware Bay received the final details of the project on October 2, 2017 and dredging operations are scheduled to commence on October 6, 2017. It is impracticable and contrary to the public interest to publish an NPRM to provide a notice and opportunity for comment period because we must establish these safety zones by October 6, 2017, to ensure the safety of life on navigable waters in the vicinity of dredging activity and protect mariners from the hazards associated with pipe-laying and dredging operations. Specific risks to safety include submerged and floating pipeline, dredge booster assemblies and the dredge itself which may be placed within or in close proximity to the navigational channel and Pea Patch Island Anchorage 5 on the Delaware River.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to mitigate the hazards presented to safety of life on the Delaware and Christina Rivers by the presence of dredge equipment and dredging operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) Delaware Bay has determined that potential hazards associated with dredging and pipe laying operations beginning on October 6, 2017, will be a safety concern for vessels attempting to transit the Delaware River, along New Castle Range, Cherry Island Range, and the Christina River. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters within the safety zones while dredging is being conducted.

IV. Discussion of the Rule

This rule establishes safety zones on portions of the Delaware River and Christina River from October 6, 2017, through January 10, 2018, unless cancelled earlier by the COTP, to facilitate maintenance dredging being conducted in New Castle Range, Cherry Island Range and the Christina River. Maintenance dredging in the channel will be conducted with the cutter suction dredge ILLINOIS and associated pipeline. The pipeline will be a combination of floating hoses immediately behind the dredge connected to a submerged pipeline leading to upland disposal areas. Due to the hazards related to cutter suction dredging, the associated pipeline, and the location of the submerged pipeline, safety zones will be established in the following areas:

(1) Safety zone 1 includes all waters within 150 yards of the dredge and all related dredge equipment. Entry into or transiting within safety zone 1 is prohibited unless vessels obtain permission from the Captain of the Port, via VHF–FM channel 16, or make satisfactory passing arrangements, via VHF–FM channels 07 or 13, with the dredge ILLINOIS per this section and the Rules of the Road (33 CFR subchapter E). The safety zone will be established for the duration of the maintenance project. Vessels requesting to transit shall contact the dredge ILLINOIS on VHF channel 07 or 13, at least 1 hour, as well as 30 minutes, prior to arrival.

(2) Safety zone 2 includes all the waters of Pea Patch Island Anchorage No. 5 found in 33 CFR 110.157(a)(6), where submerged pipeline(s) will be located which poses a risk to anchored vessels. The safety zone will be in place only during the time in which the dredge ILLINOIS is conducting dredging operations in New Castle Range. Vessels requesting to anchor in Pea Patch Island Anchorage No. 5, during the enforcement of safety zone 2, are required to obtain permission from the COTP prior to entry into the anchorage.

The COTP will terminate each safety zone individually once all submerged pipeline has been recovered and dredging operations are completed in each range respectively. Notice of the termination of each safety zone will be made in accordance with 33 CFR 165.7.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zones. Although this regulation will restrict access to regulated areas, the effect of this rule will not be significant because there are a number of alternate anchorages available. Furthermore, vessels may be permitted to transit through the safety zone with the permission of the COTP or make satisfactory passing arrangements with the dredge ILLINOIS in accordance with this rule and the Rules of the Road (33 CFR subchapter E). Extensive notification of the safety zones to the maritime public will be made via maritime advisories allowing mariners to alter their plans accordingly.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the

reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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.

F. 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 (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 safety zones that encompass all navigable waters within 150 yards of a dredge, dredging pipeline and all dredge related equipment. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. 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.

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.T05–0947, to read as follows:

§ 165.T05–0947 Safety Zones, Delaware River; Dredging.

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

(1) *Safety zone 1.* Safety zone 1 includes all navigable waters within 150 yards of the dredge ILLINOIS and all related dredge equipment.

(2) *Safety zone* Safety zone 2 includes all the waters of Pea Patch Island Anchorage No. 5 found in 33 CFR 110.157(a)(6), where submerged pipeline will be located causing a hazard to anchoring vessels.

(b) *Definitions*—(1) *Captain of the Port* means the Commander Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Delaware Bay, to assist with the enforcement of safety zones described in paragraph (a) of this section.

(c) *Regulations.* The general safety zone regulations found in 33 CFR part 165 subpart C apply to the safety zones created by this section.

(1) Entry into or transiting within safety zone 1 is prohibited unless vessels obtain permission from the Captain of the Port, via VHF–FM channel 16, or make satisfactory passing arrangements, via VHF–FM channels 07 or 13, with the dredge ILLINOIS per this section and the Rules of the Road (33 CFR subchapter E). Vessels requesting to transit shall contact the dredge ILLINOIS on VHF–FM channel 07 or 13, at least 1 hour, as well as 30 minutes, prior to arrival.

(2) Entry into, transiting, or anchoring within safety zone 2 is prohibited unless vessels obtain permission from the Captain of the Port via VHF–FM channel 16.

(3) Vessels granted permission to enter and transit through the safety zone(s) must do so in accordance with any directions or orders of the Captain of the Port, his designated representative, or the dredge ILLINOIS as appropriate. No person or vessel may enter or remain in a safety zone without permission from the Captain of the Port or the dredge ILLINOIS as applicable.

(4) At least one side of the main navigational channel will be kept clear for safe passage of vessels in the vicinity

of safety zone 1. At no time will the main navigational channel be closed to vessel traffic.

(5) This section applies to all vessels that intend to transit through either safety zone except vessels that are engaged in the following operations: enforcement of laws; service of aids to navigation, and emergency response.

(d) *Enforcement period.* This section is enforced from October 6, 2017, through January 10, 2018.

(1) *Zone 1.* Zone 1 will be enforced at all times during which the dredge ILLINOIS is conducting dredging operations in New Castle Range, Cherry Island Range, and the Christina River.

(2) *Zone 2.* Zone 2 will be enforced only during those times that dredge ILLINOIS is conducting dredging operations in New Castle Range.

(3) *Notifications.* The Captain of the Port will notify the maritime community of specific times and locations during which these safety zones will be enforced by providing advance notice via marine safety information bulletins, broadcast notice to mariners and local notice to mariners.

Dated: October 5, 2017.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2017–21979 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0808]

RIN 1625–AA00

Safety Zone; Patapsco River, Northwest and Inner Harbors; Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; correction.

SUMMARY: The Coast Guard is correcting a temporary final rule that appeared in the **Federal Register** on October 3, 2017. The document issued a temporary safety zone for certain waters of the Patapsco River, Northwest Harbor and Inner Harbor in association with the movement of the historic sloop-of-war USS CONSTELLATION on October 26, 2017 (rain date of October 27, 2017).

DATES: This correction is effective from 8 a.m. on October 26, 2017, through 1 p.m. on October 27, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald L. Houck, at Sector Maryland-National Capital Region, Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–21180 appearing on page 45981 of Wednesday, October 3, 2017, the following corrections are made:

§ 165.T05–0808 [Corrected]

■ 1. On page 45984, in the 1st column, in § 165.T05–0808, correct paragraph (e) to read as follows:

''(e) *Enforcement period.* This section will be enforced from 8 a.m. through 1 p.m. on October 26, 2017, and, if necessary due to inclement weather, from 8 a.m. through 1 p.m. on October 27, 2017.''

Dated: October 4, 2017.

Lonnie P. Harrison, Jr.

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2017–21959 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 326

[COE–2017–0008]

RIN 0710–AA77

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: U.S. Army Corps of Engineers, Department of Defense

ACTION: Direct final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is issuing this final rule to adjust its civil monetary penalties under the Clean Water Act (CWA) and the National Fishing Enhancement Act to account for inflation. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act), which requires agencies to adjust the levels of civil monetary penalties with an initial ''catch-up'' adjustment followed by annual adjustments for inflation. The Inflation Adjustment Act prescribes a formula for adjusting statutory civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. Using the adjustment criteria provided in the Inflation Adjustment Act for the initial ''catch-up'' adjustment and the December 16, 2016, Office of Management and Budget Memorandum regarding the ''Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015'', the 2016 catch-up adjustment and 2017 annual adjustment for inflation will increase the Class I civil penalty under Section 309 of the Clean Water Act to $20,966 per violation, and the maximum civil penalty increases to $52,414. The judicial civil penalty under Section 404(s) of the Clean Water Act increases to $52,414 per day for each violation. Under the National Fishing Enhancement Act, the Class I civil penalty increases to $22,957 per violation.

DATES: This rule is effective December 12, 2017 without further notice, unless the Corps receives substantive adverse comment by November 13, 2017. If we receive such adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: You may submit comments, identified by docket number COE–2017–0008, by any of the following methods:.

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

Email: stacey.m.jensen@usace.army.mil. Include the docket number, COE–2017–0008, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, ATTN: CECW–CO (Stacey M. Jensen), 441 G Street NW., Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2017–0008. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *regulations.gov* or email. The *regulations.gov* Web site is an anonymous access system, which means we will not know your identity

or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Ms. Stacey M. Jensen at 202–761–5856 or by email at *stacey.m.jensen@usace.army.mil* or access the U.S. Army Corps of Engineers Regulatory Home Page at *http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx*.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Corps is publishing this final rule to adjust its civil monetary penalties for inflation pursuant to the Inflation Adjustment Act. This law requires the Corps to publish an initial ''catch-up'' adjustment with subsequent annual adjustments for inflation. The purpose of the Inflation Adjustment Act is to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today's dollars and rounding statutory civil penalties to the nearest dollar. Although the Inflation Adjustment Act required agencies to make an initial ''catch-up'' adjustment through an interim final rule to be published by July 1, 2016, and to publish annual adjustments beginning no later than January 15, 2017, the Corps has not yet made either adjustment. Accordingly, the Corps is combining both the ''catch-up'' adjustment that would have become effective by August 1, 2016, and the first annual adjustment that would have become effective by January 15, 2017, in this final rule. The rule will apply prospectively, to penalty assessments beginning on its effective date. Subsequently, the Corps intends to publish annual adjustments as required by the Inflation Adjustment Act, no later than January 15 of each calendar year.

Pursuant to the Inflation Adjustment Act, the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), and guidance issued by the Office of Management and Budget (OMB),[1] the Corps finds that good cause exists for issuing this final rule without prior notice and comment. The Inflation Adjustment Act does not require agencies to implement the required adjustments through a notice and comment process unless proposing an adjustment of less than the amount otherwise required, and the Corps is not exercising any discretion it may have to make a lesser adjustment. For the annual adjustments beginning in 2017, the Inflation Adjustment Act provides a clear formula for adjustment of the civil penalties, and the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. The Inflation Adjustment Act further provides that the increased penalty levels apply to penalties assessed after the effective date of the increase. For these reasons, the Corps finds that notice and comment would be impracticable and unnecessary in this situation and contrary to the language of the Inflation Adjustment Act. The Corps also notes that as we have no discretion on this action, comments received on this civil penalty rulemaking will generally not be viewed as ''adverse,'' but the 30-day delayed effective date period does provide the opportunity for the public to voice their concerns if we have overlooked anything.

Section 4 of the Inflation Adjustment Act directs federal agencies to publish annual penalty inflation adjustments. In accordance with Section 553 of the Administrative Procedures Act (APA), most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, because the Inflation Adjustment Act directed agencies to make the initial ''catch-up'' adjustment through an interim final rule, agencies were not required to complete a notice and comment process prior to promulgating that adjustment.[2] Section 4(b)(2) of the Inflation Adjustment Act further provides that each agency shall make the annual inflation adjustments ''notwithstanding section 553'' of the APA. According to the December 2016 OMB guidance issued to Federal agencies on the implementation of the 2017 annual adjustment, the phrase ''notwithstanding section 553'' means that ''the public procedure the APA generally provides—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.'' Consistent with the language of the Inflation Adjustment Act and OMB's implementation guidance, this rule is not subject to notice and opportunity for public comment. As the Corps did not previously publish an interim final rule, the Corps is delaying the effective date of this final rule for 30 days following publication.

Background

On August 3, 2011, the Deputy Secretary of Defense delegated to the Secretary of the Army the authority and responsibility to adjust penalties administered by the U.S. Army Corps of Engineers. On August 29, 2011, the Secretary of the Army delegated that authority and responsibility to the Assistant Secretary of the Army for Civil Works.

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (Inflation Adjustment Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 as previously amended by the 1996 Debt Collection Improvement Act (DCIA; collectively, ''prior inflation adjustment Acts''), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act requires agencies to do the following: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment, through an interim final rule to be published by July 1, 2016; and (2) beginning no later than January 15, 2017, make subsequent annual adjustments for inflation. The Inflation Adjustment Act does not alter an agency's statutory authority, to the extent it exists, to assess penalties below the maximum level. This final rule

[1] See Office of Management and Budget (OMB) Memoranda M–16–06 (Feb. 24, 2016) and M–17–11 (Dec. 16, 2016).

[2] Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, 4(b)(1)(A), 104 Stat. 890 (amended 2015) (codified as amended at 28 U.S.C. 2461 note); OMB Memorandum No. M–16–06 at 3.

implements the initial ''catch-up'' adjustment mandated by the Inflation Adjustment Act as well as the 2017 annual inflation adjustment mandated by the Act.

The Inflation Adjustment Act amends prior inflation adjustment Acts by substantially revising the method of calculating inflation adjustments. Prior inflation adjustment Acts required adjustments to civil penalties to be rounded significantly. For example, a penalty increase that was greater than $1,000, but less than or equal to $10,000, would be rounded to the nearest multiple of $1,000. While this allowed penalties to be kept at round numbers, it meant that agencies often would not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, this formula caused agency civil penalties to lose value relative to total inflation, thereby undermining Congress' original purpose in enacting statutory civil monetary penalties to be a deterrent and to promote compliance with the law. The Inflation Adjustment Act has removed these rounding rules. Penalties now are simply rounded to the nearest dollar. This rounding ensures that penalties will be increased each year to more effectively keep up with inflation.

The Inflation Adjustment Act required a ''catch-up'' adjustment that reset the inflation calculations by excluding prior inflationary adjustments under prior inflation adjustment Acts, and subsequent, annual adjustments to all civil penalties under the laws implemented by that agency. With this rule, the new statutory maximum penalty levels listed in Table 1 will apply to all statutory civil penalties assessed on or after the effective date of this rule.

Calculation of ''Catch-Up'' Adjustment

OMB issued guidance on calculating the initial ''catch-up'' adjustment in February 2016. That guidance included a table of multipliers to adjust the penalty level based on the year that the penalty was established or last adjusted by statute or regulation (other than the Inflation Adjustment Act).

Table 1 shows the calculation of the initial catch-up adjustment based on the guidance provided by OMB. Column (1) contains the United States Code citations for the penalty statute. Column (2) contains the dollar amount most recently established by law (other than prior inflation adjustment Acts) for each civil monetary penalty. Column (3) sets out the year the Corps' civil monetary penalties were enacted or last adjusted by law (other than adjustments under the Inflation Adjustment Act). Column (4) sets out the factor determined by OMB to adjust for inflation from October of the corresponding year in column (3) to October 2015. Column (5) sets out the adjusted civil monetary penalty resulting from multiplying the dollar amount of the civil monetary penalty set out in Column (2) by the inflation factor in column (4). Column (6) sets out the civil monetary penalty that was in effect on November 2, 2015. Column (7) sets out the maximum catch-up penalty—an amount that is 250 percent of the 2015 penalty—which is calculated by multiplying the penalty amount in Column (6) by 2.5 (to achieve a 150 percent increase for a total of 250 percent of the 2015 penalty). Column (8) sets out the initial catch-up penalty amount, which is the lesser of the adjusted civil monetary penalty in Column (5) or the maximum civil monetary penalty in Column (7).

Calculation of 2017 Annual Inflation Adjustment

The Office of Management and Budget (OMB) issued guidance on calculating the 2017 annual inflation adjustment. See December 16, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, OMB, Subject: Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The OMB provided to agencies the cost-of-living adjustment multiplier for 2017, based on the CPI–U for the month of October 2016, not seasonally adjusted, which is 1.01636. Agencies are to adjust ''the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.'' For 2017, agencies multiply each applicable penalty by the multiplier, 1.01636, and round to the nearest dollar. The multiplier should be applied to the most recent penalty amount, *i.e.,* the one that includes the initial catch-up adjustment mandated by the Inflation Adjustment Act. Column (9) in Table 1 sets out the 2017 Inflation Adjustment Multiplier while Column (10) sets out the new penalty levels which take effect upon the effective date of this adjustment, on December 12, 2017.

TABLE 1

Citation	Current civil monetary penalty (CMP) amount established by law	Year CMP enacted or last adjusted by law	Inflation factor for year in column (3)	Adjusted CMP—$ amount in column (2) × factor in column (4)	CMP amount as of Nov. 2, 2015	CMP Cap—2.5 × amount in column (6)	Catch-up CMP—lesser of column (5) or (7)	2017 Inflation adjustment multiplier	CMP amount as of December 12, 2017
CWA, 33 U.S.C. 1319(g)(2)(A).	$10,000 per violation, with a maximum of $25,000.	1987	2.06278	$20,628 per violation, with a maximum of $51,570.	$11,000 per violation, with a maximum of $32,500.	$27,500 per violation, with a maximum of $81,250.	$20,628 per violation, with a maximum of $51,570.	1.01636	$20,966 per violation, with a maximum of $52,414.
CWA, 33 U.S.C. 1344(s)(4).	Maximum of $25,000 per day for each violation.	1987	2.06278	Maximum of $51,570 per day for each violation.	Maximum of $25,000 per day for each violation.	Maximum of $81,250 per day for each violation.	Maximum of $51,570 per day for each violation.	1.01636	Maximum of $52,414 per day for each violation.
National Fishing Enhancement Act, 33 U.S.C. 2104(e).	Maximum of $10,000 per violation.	1984	2.25867	Maximum of $22,587 per violation.	Maximum of $11,000 per violation.	Maximum of $27,500 per violation.	Maximum of $22,587 per violation.	1.01636	Maximum of $22,957 per violation.

In sum, under this final rule the minimum Class I civil penalty for violations under CWA Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)A), will increase from $11,000 per violation to $20,966, and the maximum penalty will increase from $32,500 per violation to $52,414. Judicially-imposed civil penalties under CWA Section 404(s)(4), 33 U.S.C. 1344(s)(4), will increase from a maximum of $25,000 per day for each violation to $52,414. Finally, the Class

I civil penalty for violations of Section 205(e) of the National Fishing Enhancement Act, 33 U.S.C. 2104(e), will increase from a maximum of $11,000 per violation to $22,957.

This rule will not result in any additional costs to implement the Corps Regulatory Program because the Class I civil penalties and judicial civil penalties have been in effect since 1990 when the Corps first promulgated regulations regarding such penalties (Class I civil penalties were first established by statute in 1987). This rule merely adjusts the value of current statutory civil penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted, as required by the Inflation Adjustment Act. This rule will result in additional costs to members of the regulated public who do not comply with the terms and conditions of issued Department of the Army permits and either receive a final Class I civil administrative penalty order from a District Engineer or are subject to a judicial civil penalty because it increases the minimum and maximum penalty amounts to $20,966 and $52,414 for Class I civil administrative penalties under the Clean Water Act, to a maximum of $52,414 for judicially-imposed civil penalties under the Clean Water Act, and to a maximum of $22,957 for Class I civil administrative penalties under the National Fishing Enhancement Act. The benefit of this rule will be to improve the effectiveness of Corps civil monetary penalties by maintaining their deterrent effect and promoting compliance with the law.

Administrative Requirements

Plain Language

In compliance with the principles in the President's Memorandum of June 1, 1998, regarding plain language, this preamble is written using plain language. The use of ''we'' in this notice refers to the Corps and the use of ''you'' refers to the reader. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Paperwork Reduction Act

This final rule will not impose any new information collection burden under the provisions of the Paperwork Production Act (44 U.S.C. 3501 *et seq.*). This action merely increases the level of statutory civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of Corps-administered statutes and their implementing regulations.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. For the Corps regulatory program under Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, the current OMB approval number for information requirements is maintained by the Corps of Engineers (OMB approval number 0710–0003). However, there are no new approval or application processes required as a result of this rulemaking that necessitate a new Information Collection Request (ICR). The regulation would not impose reporting or recordkeeping requirements. Therefore, this action is not subject to the Paperwork Reduction Act.

Executive Order 12866 and Executive Order 13563, ''Improving Regulation and Regulatory Review''

The OMB has not designated this final rule a ''significant regulatory action'' under Executive Order 12866. Accordingly, OMB has not reviewed this rule. Moreover, this final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the Inflation Adjustment Act and OMB guidance. The Corps, therefore, did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the Corps to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' The phrase ''policies that have Federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects 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.''

This rule does not have Federalism implications. This nondiscretionary action is required by the Inflation Adjustment Act and will have no substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, Executive Order 13132 does not apply to this rule.

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

The Regulatory Flexibility Act applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act, 5 U.S.C. 553, or any other statute. See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule because a notice-and-comment rulemaking process is not required for the reasons stated above.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the agencies generally must prepare a written statement, including a cost-

benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the Corps to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Before the Corps establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, they must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this final rule does not impose new substantive requirements and therefore does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA. For the same reasons, we have determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, this final rule is not subject to the requirements of Section 203 of UMRA. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

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

Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives.

This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The phrase ''policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. The rule imposes no new substantive obligations on tribal governments but instead merely adjusts the value of current statutory civil monetary penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Therefore, Executive Order 13175 does not apply to this rule.

Environmental Documentation

The Corps prepares appropriate environmental documentation, including Environmental Impact Statements when required, for all permit decisions. Therefore, environmental documentation under the National Environmental Policy Act is not required for this rule. This final rule does not constitute a major Federal action significantly affecting the quality of the human environment because it merely increases the value of statutory civil monetary penalties to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute and OMB guidance, and the Corps has no discretion to vary the amount of the adjustment.

Appropriate environmental documentation has been, or will be, prepared for each permit action that is subject to the civil penalty process. Therefore, environmental documentation under the National Environmental Policy Act (NEPA) is not required for this final rule.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended 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. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Executive Order 12898

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental

justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities. This rule relates solely to the adjustments to civil penalties to account for inflation.

Executive Order 13211

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule relates only to the adjustments to civil penalties to account for inflation. This rule is consistent with current agency practice, does not impose new substantive requirements, and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 33 CFR Part 326

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (water), Water pollution control, Waterways.

Dated: October 4, 2017.

Douglas W. Lamont,

Senior Official Performing the Duties of the Assistant Secretary of the Army (Civil Works).

For the reasons set forth in the preamble, the Corps amends 33 CFR part 326 as follows:

PART 326—ENFORCEMENT

■ 1. The authority citation for part 326 continues to read as follows:

Authority: 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

■ 2. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

§ 326.6 Class I administrative penalties.

(a) *Introduction.* (1) This section sets forth procedures for initiation and administration of Class I administrative penalty orders under Section 309(g) of the Clean Water Act, judicially-imposed civil penalties under Section 404(s) of the Clean Water Act, and Section 205 of the National Fishing Enhancement Act. Under Section 309(g)(2)(A) of the Clean Water Act, Class I civil penalties may not exceed $20,966 per violation, except that the maximum amount of any Class I civil penalty shall not exceed $52,414. Under Section 404(s)(4) of the Clean Water Act, judicially-imposed civil penalties may not exceed $52,414 per day for each violation. Under Section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed $22,957 for each violation.

Environmental statute and U.S. code citation	Statutory civil monetary penalty amount for violations that occurred after November 2, 2015, and are assessed on or after [Insert Effective Date]
Clean Water Act (CWA), Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A)	$20,966 per violation, with a maximum of $52,414.
CWA, Section 404(s)(4), 33 U.S.C. 1344(s)(4)	Maximum of $52,414 per day for each violation.
National Fishing Enhancement Act, Section 205(e), 33 U.S.C. 2104(e)	Maximum of $22,957 per violation.

* * * * *

[FR Doc. 2017–22218 Filed 10–12–17; 8:45 am]

BILLING CODE 3720–58–P

POSTAL SERVICE

39 CFR Part 111

Domestic Competitive Products Pricing and Mailing Standards Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to reflect changes to prices for competitive products. There are no mailing standards changes scheduled for competitive products.

DATES: *Effective:* January 21, 2018.

FOR FURTHER INFORMATION CONTACT: Karen Key at (202) 268–7492, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: This final rule describes new prices for competitive products, by class of mail, established by the Governors of the United States Postal Service®. New prices are available under Docket Number CP2018–8 on the Postal Regulatory Commission's (PRC) Web site at *http://www.prc.gov,* and also located on the Postal Explorer® Web site at *http://pe.usps.com.*

The Postal Service will revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), to reflect changes to prices for the following competitive products:

- Priority Mail Express®.
- Priority Mail®.
- First-Class Package Service—Retail®.
- First-Class Package Service—Commercial®.
- Parcel Select®.
- USPS Retail Ground®.
- Extra Services.
- Return Services.
- Mailer Services.
- Recipient Services.

Competitive product prices are identified by product as follows:

Priority Mail Express

Prices

Overall, Priority Mail Express prices will increase 3.9 percent. Priority Mail Express will continue to offer zoned and Flat Rate Retail, Commercial Base™, and Commercial Plus™ pricing.

Retail prices will increase an average of 3.9 percent. The Flat Rate Envelope price will increase to $24.70, the Legal Flat Rate Envelope will increase to $24.90, and the Padded Flat Rate Envelope will increase to $25.40.

Commercial Base prices offer lower prices to customers who use authorized postage payment methods. Commercial Base prices will increase an average of 3.7 percent. Commercial Base pricing offers an average 11.3 percent discount off retail prices.

Commercial Plus prices were matched to the Commercial Base prices in the 2016 price change and will continue to be matched in 2018.

Priority Mail

Prices

Overall, Priority Mail prices will increase 3.9 percent. Priority Mail will continue to offer zoned and Flat Rate Retail, Commercial Base, and Commercial Plus pricing.

Retail prices will increase an average of 0.8 percent. The Flat Rate Envelope price will increase to $6.70, the Legal Flat Rate Envelope will increase to $7.00, and the Padded Flat Rate Envelope will increase to $7.25. The Small Flat Rate Box price will increase to $7.20 and the Medium Flat Rate Boxes will increase to $13.65. The Large Flat Rate Box will increase to $18.90, and the APO/FPO/DPO Large Flat Rate Box will increase to $17.40.

Commercial Base prices offer lower prices to customers who use authorized postage payment methods. Commercial Base prices will increase an average of 6.2 percent. Commercial Base pricing offers an average 9.4 percent discount off retail prices.

The Commercial Plus price category offers price incentives to large volume customers who have a customer commitment agreement with USPS. Commercial Plus prices will increase an average of 6.1 percent. Commercial Plus pricing offers an average 12.7 percent discount off retail prices.

First-Class Package Service—Retail

Prices

Overall, First-Class Package Service—Retail prices will increase 14.5 percent.

First-Class Package Service—Commercial

Prices

Overall, First-Class Package Service—Commercial prices will increase 3.9 percent.

Parcel Select

Prices

Parcel Select Destination Entry and Ground prices will increase an average of 4.9 percent. The prices for Parcel Select Lightweight® (PSLW) will increase an average of 7.0 percent.

USPS Retail Ground

Overall, USPS Retail Ground prices will increase an average of 3.9 percent.

Extra Services

Adult Signature Service

Adult Signature Required and Adult Signature Restricted Delivery service prices are increasing 3.4 and 3.3 percent, respectively. The price for Adult Signature Required will increase to $6.10, and Adult Signature Restricted Delivery will increase to $6.35.

Return Services

Parcel Return Service

Overall, Parcel Return Service (PRS) prices will increase an average of 4.9 percent.

Return Sectional Center Facility (RSCF) prices will increase an average of 5.2 percent, and Return Delivery Unit (RDU) prices will increase an average of 4.6 percent.

Mailer Services

Pickup on Demand Service

The Pickup on Demand® service fee will continue to be $22.00.

Recipient Services

Post Office Box Service

The competitive Post Office Box™ service prices will increase an average of 6.5 percent within the existing price ranges.

Premium Forwarding Service

Premium Forwarding Service® (PFS®) prices will increase an average of 3.9 percent. The enrollment fee paid at the retail counter for PFS-Residential will increase to $20.10, and the PFS-Residential and PFS-Commercial enrollment fee paid online will increase to $18.45 per application. The price of the weekly shipment charge for PFS-Residential will increase to $20.10.

USPS Package Intercept

The USPS Package Intercept™ fee will increase 3.9 percent to $13.45.

Other

Address Enhancement Service

Address Enhancement Service competitive product prices will be increasing between 2.7 and 4.2 percent.

Zone Charts Revision: Priority Mail to APO/FPO/DPO Processing at Chicago ISC

The Postal Service will revise all zone charts to reflect that Priority Mail to APO/FPO/DPO destinations will be processed only at the Chicago ISC. Additional information can be found in the *New Mailing Standards for Domestic Mailing Services Products, Federal Register* Notice.

Resources

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® Web site at *http://pe.usps.com.*

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal service.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

Notice 123 (Price List)

[Revise prices as applicable.]

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–22186 Filed 10–12–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0454; FRL–9969–28–Region 4]

Air Plan Approval: North Carolina; Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 16, 2017, direct final rule that approves a North Carolina state implementation plan (SIP) revision related to transportation conformity requirements. EPA will address the comment in a subsequent final action

based upon the proposed rulemaking action, also published on August 16, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 38838, on August 16, 2017, is withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9222. Ms. Sheckler can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 16, 2017 (82 FR 38838), EPA published a direct final rule approving portions of a SIP revision submitted by the State of North Carolina through the North Carolina Department of Environment and Natural Resources (now the North Carolina Department of Environmental Quality) to clarify the applicability of the State's transportation conformity rules. EPA took a direct final action to approve changes to regulation 15A NCAC Subchapter 2D, section .2001, purpose, scope and applicability related to North Carolina's transportation conformity provisions.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the aforementioned rule. As a result of the comment received, EPA is withdrawing the direct final rule approving the aforementioned changes to the North Carolina SIP. EPA will address the comment in a separate final action based on the proposed action also published on August 16, 2017 (82 FR 38864). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.1770(c) published on August 16, 2017 (82 FR 38838), is withdrawn effective October 13, 2017.

[FR Doc. 2017–22094 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0150; FRL–9969–54–Region 1]

Air Plan Approval; Connecticut; Nonattainment New Source Review Permit Requirements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 14, 2017, direct final rule approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision addresses the nonattainment new source review (NNSR) requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). This action is being taken in accordance with the Clean Air Act.

DATES: The direct final rule published on August 14, 2017 (82 FR 37819), is withdrawn effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; email address: *dahl.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by September 13, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed rule also published on August 14, 2017 (82 FR 37829). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 27, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendments to 40 CFR 52.377 published in the **Federal Register** on August 14, 2017 (82 FR 37819), on page 37822 are withdrawn effective October 13, 2017.

[FR Doc. 2017–22125 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2016–0626; A–1–FRL–9969–56–Region 1]

Air Plan Approval; Vermont; Regional Haze Five-Year Progress Report; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 16, 2017, direct final rule approving a State Implementation Plan (SIP) revision submitted by the State of Vermont. Vermont's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports

describing the progress toward reasonable progress goals (RPGs) established for regional haze and a determination of adequacy of the State's existing regional haze SIP. This action is being taken in accordance with the Clean Air Act.

DATES: The direct final rule published on August 16, 2017 (82 FR 38834), is withdrawn effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912, telephone (617) 918–1697, facsimile (617) 918–0697, email *mcwilliams.anne@epa.gov*.

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by September 15, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed rule also published on August 16, 2017 (82 FR 38864). EPA will not institute a second comment period on this action.

Dated: September 27, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendments to 40 CFR 52.2370 published in the **Federal Register** on August 16, 2017 (82 FR 38834), on page 38838 are withdrawn effective October 13, 2017.

[FR Doc. 2017–22123 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0436; FRL–9969–36–Region 4]

Air Plan Approval; AL; VOC Definitions and Particulate Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve changes to the Alabama State Implementation Plan (SIP) to revise the definition of ''volatile organic compounds'' (VOCs), correct a typographical error, and remove control of particulate emissions and opacity limits for Talladega County. EPA is approving the SIP revisions submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), on May 19, 2017. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective November 13, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0436. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Wong can be reached via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is the Agency taking?

In this rulemaking, EPA is approving changes to the Alabama SIP, submitted by the State on May 19, 2017. The submission revises ADEM Rule 335–3–1–.02—*Definitions* and Rule 335–3–4–.08—*Wood Waste Boilers.* Specifically, this rulemaking revises the definition of VOCs, corrects a typographical error and removes particulate emission and opacity limits for Talladega County.

II. Background

On August 16, 2017 (82 FR 38865), EPA proposed to approve the aforementioned changes, among others, to the SIP. This proposed rule accompanied a direct final rule published on the same day in the **Federal Register** (82 FR 38841). EPA received an adverse comment on the direct final rulemaking only on the changes made to Rule 335–3–1–.02 and Rule 335–3–4–.08. Accordingly, EPA is withdrawing the direct final action through a separate action published elsewhere in this issue of the **Federal Register** and is taking final action on the changes to Rule 335–3–1–.02 and Rule 335–3–4–.08 in this final rule.

A. Rule 335–3–1–.02—Definitions

On November 29, 2004, and August 1, 2016, EPA issued final rules revising the definition of VOCs by adding new compounds (tertiary butyl acetate (or t-Butyl acetate) and 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxyl) ethane) to the list of those that are considered to be negligibly reactive compounds, and on February 25, 2016 (81 FR 9339), EPA issued a final rule removing recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-Butyl acetate. The State's May 19, 2017, SIP revision adds these compounds to the list of negligibly reactive compounds under ADEM Rule 335–3–1–.02 subpart (gggg). The SIP revision also removes the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements requirement for t-Butyl acetate. Additionally, the submittal makes a typographical correction under subpart (gggg)(iii). EPA proposes to approve these revisions because they are consistent with the definition of VOC at 40 CFR 51.100(s).

The State's addition of exemptions from the definition of VOCs and removal of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate are approvable under section 110(l) because they reflect changes to Federal regulations based on findings that the exempted compounds are negligibly reactive. The typographical error correction makes ministerial changes for consistency.

B. Rule 335–3–4–.08—Wood Waste Boilers

Rule 335–3–4–.08—*Wood Waste Boilers* was adopted into the Alabama SIP on April 23, 1974 (39 FR 14338), to provide emission limits based on

available control technologies and included a 0.30 grain per dry standard cubic foot (gr/dscf) emissions limit for boilers burning a combination of wood waste and fossil fuels. On November 24, 1981 (46 FR 57484), EPA finalized a SIP revision allowing pulp mills to operate boilers that burn only wood waste in Talladega County. This change allowed a particulate matter emissions concentration of 0.45 gr/dscf when burning wood waste alone (but total emissions would remain the same provided boilers operate on a reduced rate). On July 11, 1986 (51 FR 25198), EPA approved a revision adding a new paragraph 3 at Rule 335–3–4–.08 that relaxed the allowable emission limit to 0.60 gr/dscf for wood waste boiler sources that operate up to 300 million British thermal unit per hour and tightened allowable emissions for other types of sources in Talladega County. Compliance with the emission limit was determined by an annual stack test. Additionally, an opacity limit of 76 percent was established and would be measured by a transmissometer.

The May 19, 2017, SIP revision removes paragraph 3, applicable only to sources in Talladega County, because the type of source no longer exists in the County or anywhere else in the State. Moreover, if such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335–3–4–.08 paragraph 2.

EPA believes that these changes to the regulatory portion of the SIP are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs. Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The State's removal of emissions and opacity requirements for Talladega County is an approvable change under section 110(l) because, should these sources start operating, they would fall under more stringent rules in the SIP.

III. Response to Comments

Comment: EPA received one adverse comment on the direct final rule published on August 16, 2017 (82 FR 38841), and this comment has been included in the Docket for this action. The Commenter stated that EPA should not remove t-Butyl acetate (TBAC) from the list of ''volatile organic compounds because ''this compound is particularly dangerous and can cause deformations and brain injuries.'' The Commenter stated that EPA should maintain the recordkeeping and reporting provisions ''to determine whether states are causing deformations or brain injuries in nearby communities.'' The Commenter also stated EPA should not remove wood burning rules.

Response: The State is merely updating the SIP to align with EPA's past rulemakings and reflect the definitions in 40 CFR 51.100(s). EPA issued a final rulemaking on November 29, 2004 (69 FR 69298) that revised the definition of VOC to exclude TBAC as a negligibly reactive compound. Additionally, EPA issued a final rule on February 25, 2016 (81 FR 9339), that removed TBAC recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC. EPA acknowledges the comments regarding the health risks associated with TBAC and is continuing to take steps to assess potential risks associated with this compound. In the 2016 EPA rule, EPA discussed the efforts surrounding any future determinations about the health risks associated with TBAC, including noting that data collected through the recordkeeping and reporting requirements did not appear relevant to any such future determinations and that EPA was assessing the health risks from TBAC through its Integrated Risk Information System. This effort is on-going, and we refer the Commenter to EPA's previous 2016 rulemaking (81 FR 9339, 9341) for more information regarding health risks.

The State removes Rule 335–3–4–.08 paragraph 3, particulate matter emissions limit for wood waste boilers applicable only to Talladega County because such sources no longer operate in the County. If such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335–3–4–.08 paragraph 2, applicable statewide. Therefore, the Commenter's statement that such sources should be subject to tighter requirements is true, and EPA has determined that any new source would be subjected to tighter emissions limits, currently approved in the SIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Rule 335–3–1–.02—*Definitions* and Rule 335–3–4–.08—*Wood Waste Boilers,* effective June 9, 2017. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1]

V. Final Action

EPA is taking final action to approve portions of Alabama's May 19, 2017, submission submitted by the State of Alabama through ADEM. The submission revises Rule 335–3–1–.02—*Definitions* and Rule 335–3–4–.08—*Wood Waste Boilers.*

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or

[1] 62 FR 27968 (May 22, 1997).

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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 12, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

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 B—Alabama

■ 2. Section 52.50(c) is amended by revising the entries for ''Section 335–3–1–.02'' and ''Section 335–3–4–.08'' to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter No. 335–3–1 General Provision				
*	*	*	*	*
Section 335–3–1-.02	Definitions	6/9/2017	10/13/2017; [Insert citation of publication].	
*	*	*	*	*
Chapter 335–3–4 Control of Particulate Emissions				
*	*	*	*	*
Section 335–3–4-.08	Wood Waste Boilers	6/9/2017	10/13/2017; [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–22099 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0388; FRL–9969–31–Region 4]

Air Plan Approval: South Carolina; Standards for Volatile Organic Compounds and Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing a portion of the August 16, 2017, direct final rule that approves changes to South Carolina's state implementation plan (SIP) related to the regulation of volatile organic compounds (VOC) and oxides of nitrogen (NO_X). EPA will address the comment in a separate final action based upon the proposed rulemaking action, also published on August 16, 2017. EPA will not institute a second comment period on this action.

DATES: The amendment to 40 CFR 52.2120(c) at Regulation 62.5, Standard No. 5.2 (amendatory instruction 2.b) published at 82 FR 38828, on August 16, 2017, is withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 16, 2017 (82 FR 38825), EPA published a direct final rule approving portions of several SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control, on October 1, 2007, June 17, 2013, and January 20, 2016. EPA took a direct final action to approve portions of the October 1, 2007, June 17, 2013, and January 20, 2016, submissions that made changes to Regulation 61–62.5, Standard No. 5—''Volatile Organic Compounds,'' and Regulation 61–62.5, Standard No. 5.2—''Control of Oxides of Nitrogen (NO_X).''

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revisions should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. EPA specified, however, that if a comment were received on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the portion of the direct finale rule that made changes to Regulation 61–62.5, Standard No. 5.2 only. As a result of the comment received, EPA is withdrawing only the portion of the direct final rule approving changes to the South Carolina SIP at Regulation 61–62.5, Standard No. 5.2, as submitted in the October 1, 2007, SIP revision. The EPA will address the comment in a separate final action based on the proposed action also published on August 16, 2017 (82 FR 38865). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Volatile organic compounds.

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

■ Accordingly, the amendments to 40 CFR 52.2120(c) at Regulation 62.5, Standard No. 5.2 (amendatory instruction 2.b) published on August 16, 2017 (82 FR 38825), which were to become effective October 16, 2017, are withdrawn.

[FR Doc. 2017–22122 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0085; FRL–9969–33–Region 4]

Air Plan Approval; North Carolina; Air Curtain Burners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 17, 2017, direct final rule that approves portions of North Carolina State Implementation Plan (SIP) revisions related to changes to an air curtain burner regulation. EPA stated in the direct final rules that if EPA received adverse comments by the close of the public comment period, the rules would be withdrawn and not take effect. EPA will address the comment in a subsequent final action based upon the proposed rulemaking action, also published on August 17, 2017.

DATES: The direct final rule published August 17, 2017 at 82 FR 39027 is withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Ward can be reached via telephone at (404) 562–9140, or via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION: On August 17, 2017 (82 FR 39027), EPA published a direct final rulemaking approving portions of SIP revisions submitted by State of North Carolina through the North Carolina Department of Environmental Quality (formerly the North Carolina Department of Environment and Natural Resources), Division of Air Quality. Specifically, EPA took direct final action to approve portions of North Carolina's October 14, 2004, March 24, 2006, and January 31, 2008 submissions that make changes to Regulation 15A NCAC Subchapter 2D—Air Pollution Control Requirements, Section .1904, *Air Curtain Burners*. These SIP revisions were submitted to make changes to the requirements for permits obtained for air curtain burners as defined by 40 CFR 60.2245 through 60.2265, permanent burning sites or materials transported from burning site to burning site; make clarifications to

existing text regarding air quality forecast areas in order to address all pollutants instead of only ozone; and expand the scope of the types of air curtain burners for which air quality permits must be issued.

In the direct final rulemaking, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed (*see* 82 FR 39097). EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the aforementioned rule. As a result of the comment received, EPA is withdrawing the direct final rule approving the aforementioned changes to the North Carolina SIP. If EPA determines that it is appropriate to finalize the proposed approval of the aforementioned changes to the North Carolina SIP, EPA will publish a final rule which will include a response to the comments received. In the event that EPA determines that it is not appropriate to finalize the proposed approval related to these changes, EPA may issue a subsequent proposal with a different course of action.

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.1770(c), Table 1, published August 17, 2017 (82 FR 39027), is withdrawn effective October 13, 2017.

[FR Doc. 2017–22101 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0436; FRL–9969–35–Region 4]

Air Plan Approval; AL; VOC Definitions and Particulate Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 16, 2017, direct final rule that approves an Alabama state implementation plan (SIP) revision related to ''volatile organic compounds'' (VOCs) and particulate emissions. EPA will address the comment in a subsequent final action based upon the proposed rulemaking action, also published on August 16, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 38841, on August 16, 2017, is withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Wong can also be reached via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 16, 2017 (82 FR 38841), EPA published a direct final rule approving a SIP revision submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM). EPA took a direct final action to approve the May 19, 2017, submission that revises ADEM Rule 335–3–1–.02—*Definitions* and Rule 335–3–4–.08—*Wood Waste Boilers.* The rulemaking also revises the definition of VOCs, corrects a typographical error and removes particulate emission and opacity limits for Talladega County.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the aforementioned rule. As a result of the comment received, EPA is withdrawing the direct final rule approving the aforementioned changes to the Alabama SIPs. EPA will address the comment in a separate final action based on the proposed action also published on August 16, 2017 (82 FR 38865). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendments to 40 CFR 52.50(c) published on August 16, 2017 (82 FR 38841), are withdrawn effective October 13, 2017.

[FR Doc. 2017–22098 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0387; FRL–9969–41–Region 4]

Air Plan Approval: South Carolina; Miscellaneous Revisions to Multiple Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing portions of the August 21, 2017, direct final rule that approves changes to South Carolina's state implementation plan (SIP) related to definitions and open burning. EPA will address the comment in a separate final action based upon the proposed rulemaking action, also published on August 21, 2017. EPA will not institute a second comment period on this action.

DATES: The amendments to 40 CFR 52.2120(c) at Regulation 62.1 and Regulation No. 62.2 (amendatory instructions 2.A and B.) published at 82 FR 39537, on August 21, 2017, are withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 21, 2017 (82 FR 39537), EPA published a direct final rule approving portions of several SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control, on July 18, 2011, June 17, 2013, April 10, 2014, August 8, 2014, January 20, 2016, and July 27, 2016. EPA took a direct final action to approve portions of the July 18, 2011, June 17, 2013, April 10, 2014, August 8, 2014, January 20, 2016, and July 27, 2016, submissions that made changes to Regulation 61–62.1, Section I—''Definitions,'' and Regulation 61–62.2—''Prohibition of Open Burning,'' among other changes.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. EPA specified, however, that if a comment were received on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the portions of the direct final rule that made changes to Regulation 61–62.1, Section I and Regulation 61–62.2 only. As a result of the comment received, EPA is withdrawing only the portions of the direct final rule approving changes to the South Carolina SIP at Regulation 61–62.1, Section I, as submitted in the July 18, 2011, June 17, 2013, April 10, 2014, and July 27, 2016, SIP revision, and Regulation 61–62.2, as submitted in the April 10, 2014, SIP revision. EPA will address the comment in a separate final action based on the proposed action also published on August 21, 2017 (82 FR 39551). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

■ Accordingly, the amendments to 40 CFR 52.2120(c) at Regulation 62.1 and Regulation No. 62.2 (amendatory instructions 2.A and B.) published on August 21, 2017 (82 FR 39541), which were to become effective October 20, 2017, are withdrawn.

[FR Doc. 2017–22120 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0500; FRL–9969–39–Region 4]

Air Plan Approval; Florida; Stationary Sources Emissions Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a portion of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on February 1, 2017, for the purpose of revising Florida's requirements and procedures for emissions monitoring at stationary sources. Florida's February 1, 2017, SIP submittal includes amendments to three Florida Administrative Code (F.A.C.) rule sections, as well as the removal of one F.A.C. rule section from the Florida SIP in order to eliminate redundant language and make updates to the requirements for emissions monitoring at stationary sources. Additionally, this action includes a correction to remove an additional F.A.C. rule that was previously approved for removal from the SIP in a separate action but was never removed. EPA is taking action on Florida's February 1, 2017, SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective December 12, 2017 without further notice, unless EPA receives adverse comment by November 13, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0500 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be

edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached via telephone at (404) 562–8966 or via electronic mail *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What actions is EPA taking today?

On February 1, 2017, FDEP submitted to EPA for adoption a SIP revision for the purpose of updating Florida's requirements and procedures for emissions monitoring at stationary sources. Florida's February 1, 2017, SIP submittal included amendments to three F.A.C. rule sections and the removal of one F.A.C. rule section from the Florida SIP.[1] Specifically, these changes to Florida's rules included the amendments of Rule 62–297.310, F.A.C.—''General Emissions Test Requirement;'' [2] Rule 62–297.440, F.A.C.—''Supplementary Test Procedures;'' and Rule 62–297.450, F.A.C.—''EPA VOC Capture Efficiency Test Procedures.'' In addition, Florida's February 1, 2017, SIP submittal includes the removal of one of Florida's rule sections from the SIP. Specifically, Florida requested to remove Rule 62–297.401, F.A.C.—''Compliance Test Methods'' from the State's implementation plan because it has been repealed at the state level, and, according to the submittal, the section is unnecessary, obsolete or duplicative of other F.A.C. Rules.

Through this rulemaking, EPA is approving the portions of Florida's February 1, 2017, SIP submittal regarding amendments to Rule 62–297.440, F.A.C., and Rule 62–297.450, F.A.C., as well as the removal of Rules 62–297.401, F.A.C., from the State's implementation plan. The portion of the SIP regarding Rule 62–297.310 is being discussed in a separate rulemaking that is proposing approval of portions of several SIP submittals making administrative and recodification changes to Florida's SIP. *See* 82 FR 37379 (August 10, 2017).

In addition to the removal of Rule 62–297.401, F.A.C., EPA is removing Rule 62–297.400, F.A.C.—''EPA Methods Adopted by Reference'' from the Florida SIP. The removal of this rule section was previously approved by EPA, but was never reflected in Florida's SIP-approved rules table in 40 CFR 52.520(c). For more detail on the approval to remove Rule 62–297.400, F.A.C., see the June 16, 1999, rulemaking (64 FR 32346).

II. Analysis of State Submittal

As mentioned in Section I above, Florida submitted to EPA a SIP revision on February 1, 2017, which includes amendments to three of its rules to address requirements for emissions monitoring at stationary sources and proposed to remove one of its SIP-approved rules. Specifically, Florida proposed amendments to Rules 62–297.310, 62–297.440, and 62–297.450, F.A.C., and proposed to remove Rule 62–297.401, F.A.C., from the State's implementation plan. A description of the changes proposed to these Rules and our analyses of these changes is included below.

A. Rule 62–297.401, F.A.C.—''Compliance Test Methods''

In its February 1, 2017, SIP submittal, Florida requested that Rule 62–297.401, F.A.C.—''Compliance Test Methods'' be removed from the State's implementation plan. This rule section listed the air emissions test methods that were to be used whenever a compliance test was required by another rule or a permit. These test methods are now prescribed in each individual rule that requires a compliance test, and as a result, Rule 62–297.401 is no longer needed as its own separate list. In addition, Florida incorporates by reference all the necessary EPA test methods in Rule 62–204.800, F.A.C—''Federal Regulations Adopted by Reference.'' Consequently, Florida has since repealed Rule 62–297.401, F.A.C., state effective on July 10, 2014. EPA is approving the removal of the aforementioned rule from Florida's SIP because the requirements are still in place in other state rules, and we believe this repealed rule is no longer necessary.

B. Rule 62–297.440, F.A.C.—''Supplementary Test Procedures''

In Florida's February 1, 2017, SIP submittal the State proposed several revisions to Rule 62–297.440, F.A.C.—''Supplementary Test Procedures,'' which became state effective on July 10, 2014. This rule section listed additional testing methods that could be used in conjunction and as a supplement to all other required test methods. In its February 1, 2017, SIP submittal, Florida is requesting the removal of several subsections because they contain test methods that are either adopted by reference in other rule sections or are now obsolete. Florida proposed to remove the following subsections from Rule 62–297.440, F.A.C.: (1)—''ASTM Methods,'' (3)—''American Conference of Governmental Industrial Hygienists, Recommended Practices—Industrial Ventilation: A Manual of Recommended Practice—Equipment Specifications,'' (5)—''Technical Association of Pulp and Paper Industry (TAPPI), Test Methods,'' (6)—''Sulphur Development Institute of Canada (SUDIC) Sampling and Testing Sulphur Forms,'' and (7)—''EPA VOC Capture Efficiency Test Procedures.''

With the exception of the language from subsection (7)—''EPA VOC Capture Efficiency Test Procedures'' (which are now included in Rule 62–297.450, F.A.C.—''EPA VOC Capture Efficiency Test Procedures''), all other subsections mentioned in the paragraph above were repealed because they are obsolete and unnecessary. Given that these test methods were supplementary and that all required test methods are still in place and prescribed in each section or permit that requires testing, as mentioned in Section II.B. above, EPA agrees with the amendments and is approving the removal of these five subsections from Rule 62–297.440, F.A.C.

[1] Florida Administrative Code, ''62–297,'' for example, is a rule chapter, and ''62–297.310'' is a rule section, commonly written as ''Chapter 62–297, F.A.C.,'' and ''Rule 62–297.310, F.A.C.,'' respectively. Throughout this rulemaking, we will use this nomenclature to refer to rule chapter and rule sections.

[2] Although referenced in the February 1, 2017, SIP submittal by the title of ''General Emissions Test Requirements,'' the current SIP-approved Rule 62–297.310, F.A.C., is titled ''General Test Requirements.'' The renaming of this Rule is included in the February 1, 2017, SIP submittal and is being acted on in a separate rulemaking.

C. Rule 62–297.450, F.A.C.—''EPA VOC Capture Efficiency Test Procedures''

In its February 1, 2017, SIP submittal, Florida proposed several revisions to Rule 62–297.450, F.A.C—''EPA VOC Capture Efficiency Test Procedures,'' which became state effective on July 10, 2014. This rule section lists procedures for determining the capture efficiency of a VOC capture system. The February 1, 2017, SIP submittal makes clarifying changes to this rule by reformatting the rule, but did not change the requirements that had to be met in order to determine the capture efficiency of a VOC capture system. Some subsections of the rule were removed, and instead, the State references EPA's Emissions Measurement Technical Information Center Guideline Document GD–035—''Guideline for Determining Capture Efficiency,'' January 9, 1995.[3] In addition, amendments to Rule 62–297.450, F.A.C., add language removed from subsection 62–297.440(7) mentioned above.

EPA is approving the changes provided in Florida's February 1, 2017, SIP submittal to Rule 62–297.450, F.A.C., on the basis that these changes are simply to clarify and simplify the language in the rule, and are consistent with EPA's VOC capture efficiency test procedure guidelines, as established in the agency's GD–035 guideline.

III. Removal of 62–297.400 From the Florida SIP

In an April 15, 1996, SIP submittal, Florida requested, among other things, the removal of several Rule sections from the State's SIP. Specifically, Florida requested to remove fourteen sections from Rule Chapter 62–297, F.A.C., including Rules 62–297.400, 62–297.411, 62–297.412, 62–297.413, 62–297.414, 62–297.415, 62–297.416, 62–297.417, 62–297.418, 62–297.419, 62–297.421, 62–297.422, 62–297.423, and 62–297.424, F.A.C. In a June 16, 1999 (64 FR 32346), rulemaking, EPA approved the removal of these Florida rule sections from the State's SIP at the same time that the agency added a table of SIP-approved rules at 40 CFR 52.520.[4] However, when creating this table, EPA inadvertently included some of the rules that were being removed from Florida's SIP. The rules that were mistakenly left in the table under Chapter 62–297, F.A.C., are Rules 62–297.400, 62–297.411, 62–297.412, 62–297.413, 62–297.415, 62–297.416, 62–297.417, and 62–297.423, F.A.C.

On November 29, 2012, Florida submitted to EPA a letter requesting that corrections be made to the table at 40 CFR 52.520(c), including the removal of those rules that were approved for removal but left in the table. As a response to the November 29, 2012, letter, EPA published a Correcting Amendments rulemaking on June 20, 2013 (78 FR 37132), to make the requested corrections to Rule Chapter 62–297 in table 52.520(c) of the Florida SIP. In the June 20, 2013, correction, EPA removed all remaining rules that were previously approved for removal with the exception of Rule 62–297.400, F.A.C.

Although not requested by Florida in their February 1, 2017, SIP submittal, EPA is making the correction to the table at 40 CFR 52.520 regarding Rule 62–297.400, F.A.C., at this time. At the time of the repeal of this rule, the latest SIP-approved version of Rule 62–297.400, F.A.C., included references to Rule 62–297.401, F.A.C., and Rules 62–297.411 through 62–297.424, F.A.C., which are either removed from the SIP or are being approved for removal in this rulemaking. If Rule 62–297.400, F.A.C., was left in the Florida SIP, it would continue to make reference to SIP-approved rules that no longer exist in the State's implementation plan and could lead to confusion. Since this rule was previously approved for removal in the June 16, 1999, rulemaking, EPA is now removing the aforementioned rule from the Florida SIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Rule 62–297.440, F.A.C., entitled ''Supplementary Test Procedures'' and Rule 62–297.450, F.A.C., entitled ''EPA VOC Capture Efficiency Test Procedures,'' both state effective on July 19, 2014. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State's implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[5]

V. Final Action

EPA is taking direct final action to approve the aforementioned changes to the SIP, as submitted to us in Florida's February 1, 2017, SIP revision. Specifically, EPA is approving the amendments to Rule 62–297.440, F.A.C., and Rule 62–297.450, F.A.C., both state effective on July 19, 2014, as well as the removal of Rule 62–297.401, F.A.C., from Florida's SIP. In addition, EPA is removing Rule 62–297.400, F.A.C., from Florida's SIP as approved in a previous rulemaking.[6] This action is limited to the two rule revisions and two rule removals mentioned above and does not act on other portions of the February 1, 2017, submittal that are covered under a separate rulemaking.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 12, 2017 without further notice unless the Agency receives adverse comments by November 13, 2017. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 12, 2017 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations.

[3] EPA document GD–035, ''Guidelines for Determining Capture Efficiency,'' dated January 9, 1995, is available at: *https://www3.epa.gov/ttn/emc/guidlnd/gd-035.pdf.*

[4] The list of EPA-approved regulations in Florida's SIP can be found in Table (c) of 40 CFR part 52, Subsection 520 [40 CFR 52.520(c)].

[5] 62 FR 27968 (May 22, 1997).

[6] See Section III of this rulemaking for details on Rule 62–297.400.

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 12, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

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 K—Florida

■ 2. Section 52.520(c) is amended under ''Chapter 62–297 Stationary Sources—Emissions Monitoring'' by removing the entries for ''62–297.400'' and ''62–297.401'' and revising the entries for ''62–297.440'' and ''62–297.450'' to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED FLORIDA REGULATIONS

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 62–297 Stationary Sources—Emissions Monitoring				
*	*	*	*	*
62–297.440	Supplementary Test Procedures	7/10/2014	10/13/2017, [Insert citation of publication].	
62–297.450	EPA VOC Capture Efficiency Test Procedures.	7/10/2014	10/13/2017, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–22114 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0385; FRL–9969–29–Region 4]

Air Plan Approval: SC: Multiple Revisions to Air Pollution Control Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 16, 2017, direct final rule that approves portions of the South Carolina state implementation plan (SIP) revisions for miscellaneous rules covering air pollution control standards. EPA will address the comment in a subsequent final action based upon the proposed rulemaking action, also published on August 16, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 38828, on August 16, 2017, is withdrawn, effective October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Wong can also be reached via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 16, 2017 (82 FR 38828), EPA published a direct final rule approving SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC). EPA took a direct final action to approve portions of the October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, August 12, 2015, July 27, 2016, and November 4, 2016, submissions that revise Regulation 61–62.5, Standard No. 1—''Emissions From Fuel Burning Operations'' and Regulation 61–62.5, Standard No. 4—''Emissions From Process Industries.''

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on this action.

EPA received one adverse comment from a single Commenter on the direct final rule on both the changes to Regulation 61–62.5, Standard No. 1 and to Standard No. 4. As a result of the comment received, EPA is withdrawing the direct final rule approving the aforementioned changes to the South Carolina SIP at Regulation 61–62.5, Standard No. 1 and Regulation 61–62.5, Standard No. 4. EPA will address the comment in a separate final action based on the proposed action also published on August 16, 2017 (82 FR 38874). EPA will not open a second comment period for this action.

List of Subjects in 40 CFR Part 52

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

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

■ Accordingly, the amendments to 40 CFR 52.2120(c) published on August 16, 2017 (82 FR 38828), which were to become effective October 16, 2017, are withdrawn.

[FR Doc. 2017–22103 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XF729

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Commercial Accountability Measures and Closure for South Atlantic 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 exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings of greater amberjack will reach the commercial annual catch limit (ACL) by October 18, 2017. Therefore, NMFS closes the commercial sector for greater amberjack in the South Atlantic EEZ on October 18, 2017, and it will remain closed until the start of the next fishing year on March 1, 2018. This closure is necessary to protect the greater amberjack resource.

DATES: This rule is effective at 12:01 a.m., local time, October 18, 2017, until 12:01 a.m., local time, March 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes greater amberjack and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for greater amberjack is equivalent to the commercial quota. The commercial quota for greater amberjack in the South Atlantic is 769,388 lb (348,989 kg), gutted weight, as specified in 50 CFR 622.190(a)(3).

Under 50 CFR 622.193(k)(1), NMFS is required to close the commercial sector

for greater amberjack when the commercial ACL (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 projects that commercial landings of South Atlantic greater amberjack will reach the commercial ACL by October 18, 2017. Accordingly, the commercial sector for South Atlantic greater amberjack is closed effective at 12:01 a.m., local time, October 18, 2017, until 12:01 a.m., local time, March 1, 2018.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper with greater amberjack on board must have landed and bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, October 18, 2017. During the commercial closure, harvest and possession of greater amberjack in or from the South Atlantic EEZ is limited to the recreational bag and possession limits, as specified in § 622.187(b)(1) and (c)(1). Also during the commercial closure, the sale or purchase of greater amberjack taken from the South Atlantic EEZ is prohibited. The prohibition on sale or purchase does not apply to greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 18, 2017, and were held in cold storage by a dealer or processor, as specified in § 622.190(c)(1)(i).

For a person on board a vessel that has been issued a valid Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery, the bag and possession limits and the sale and purchase provisions of the commercial closure for greater amberjack apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of greater amberjack and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(k)(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 NOAA Fisheries (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 AMs have already been 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 since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

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: October 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–22210 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235–3658–02]

RIN 0648–XF730

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Commercial Accountability Measure and Closure for South Atlantic Vermilion Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial sector for vermilion snapper in the South Atlantic exclusive economic zone (EEZ). NMFS projects that commercial landings of vermilion snapper will reach the commercial annual catch limit (ACL) for the July through December 2017 fishing period by October 17, 2017. Therefore, NMFS closes the commercial sector for vermilion snapper in the South Atlantic EEZ on October 17, 2017, and it will remain closed until January 1, 2018, the start of the January through June commercial fishing season. This closure is necessary to protect the South Atlantic vermilion snapper resource.

DATES: This rule is effective from 12:01 a.m., local time, October 17, 2017, until 12:01 a.m., local time, January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes vermilion snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (equivalent to the commercial quota) for vermilion snapper in the South Atlantic is divided into separate quotas for two 6-month periods each year, January through June and July through December. The commercial quota for vermilion snapper in the South Atlantic is 388,703 lb (176,313 kg), gutted weight (431,460 lb (195,707 kg), round weight), for the July 1 through December 31, 2017, fishing period, as specified in 50 CFR 622.190(a)(4)(ii)(D).

On September 28, 2017 (82 FR 45207), NMFS published a temporary rule in the **Federal Register** to reduce the commercial trip limit for vermilion snapper in or from the South Atlantic EEZ to 500 lb (227 kg), gutted weight, effective at 12:01 a.m., local time, October 2, 2017, until January 1, 2018, or until the commercial quota was reached and the commercial sector closed, whichever would occur first.

In accordance with regulations at 50 CFR 622.193(f)(1), NMFS is required to close the commercial sector for vermilion snapper when the commercial quota for that 6-month period of the fishing year has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for South Atlantic vermilion snapper for the July through December fishing

period will be reached by October 17, 2017. Accordingly, the commercial sector for South Atlantic vermilion snapper is closed effective at 12:01 a.m., local time, October 17, 2017, until 12:01 a.m., local time, January 1, 2018.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper with vermilion snapper on board must have landed and bartered, traded, or sold such vermilion snapper prior to 12:01 a.m., local time, October 17, 2017. During the commercial closure, the recreational bag limit specified in 50 CFR 622.187(b)(5) and the possession limits specified in 50 CFR 622.187(c)(1) apply to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ. Also during the commercial closure, the sale or purchase of vermilion snapper taken from the EEZ is prohibited. As specified in 50 CFR 622.190(c)(1)(i), the prohibition on sale or purchase does not apply to the sale or purchase of vermilion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 17, 2017, and were held in cold storage by a dealer or processor. For a person on board a vessel issued a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery, the recreational bag and possession limits and the sale and purchase provisions of the commercial closure for vermilion snapper apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic vermilion snapper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(f)(1) and is exempt from review under Executive Order 12866.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for vermilion snapper 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 final rule implementing the AM has been subject to public notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect vermilion snapper, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established commercial quota.

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: October 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–22211 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170109046–7933–02]

RIN 0648–XF156

Pacific Island Pelagic Fisheries; 2017 U.S. Territorial Longline Bigeye Tuna Catch Limits

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies a 2017 limit of 2,000 mt of longline-caught bigeye tuna for each U.S. participating territory (American Samoa, Guam, and the Northern Mariana Islands). NMFS will allow each territory to allocate up to 1,000 mt each year to U.S. longline fishing vessels in a valid specified fishing agreement. As an accountability measure, NMFS will monitor, attribute, and restrict (if necessary), catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. These catch limits and accountability measures support the long-term sustainability of fishery resources of the U.S. Pacific Islands and fisheries development in the U.S. territories.

DATES: The final specifications are effective October 10, 2017, through December 31, 2017. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b)(3) for review is December 11, 2017.

ADDRESSES: Copies of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org.*

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. Copies of those analyses, identified by NOAA–NMFS–2017–0004, are available from *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0004,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: NMFS is specifying a catch limit of 2,000 mt of longline-caught bigeye tuna for each U.S. participating territory in 2017. NMFS is also authorizing each territory to allocate up to 1,000 mt of its 2,000-mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Pelagic FEP. NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each territory, including catches made by U.S. longline vessels operating under specified fishing agreements. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, will follow the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits. When NMFS projects that a territorial catch or allocation limit will be reached, NMFS will, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (territorial catch limit), and/or vessels in a specified fishing agreement (allocation limit).

You may find additional background information on this action in the preamble to the proposed specifications published on August 31, 2017 (82 FR 41388).

Comments and Responses

On August 31, 2017, NMFS published the proposed specifications and request for public comments (82 FR 41388); the comment period closed on September 15, 2017.

In addition to the proposed catch limit specification, NMFS specifically invited public comments that would address the impact of the proposed action on cultural fishing rights in American Samoa. On March 20, 2017, in *Territory of American Samoa* v. *NMFS, et al. (16–cv–95, D. Haw),* a Federal judge vacated and set aside a NMFS rule that amended the American Samoa Large Vessel Prohibited Area (LVPA) for eligible longliners. The Court held that the action was inconsistent with the ''other applicable law'' provision of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by not considering the protection and preservation of cultural fishing rights in American Samoa under the Instruments of Cession. The Instruments of Cession do not specifically mention cultural fishing rights, and the Court's decision, although recognizing the need to protect those rights, does not define them. The Council is currently reevaluating the LVPA rule, including options to define cultural fishing rights in American Samoa that are subject to preservation and protection.

NMFS received five comment submissions on the proposed specifications, from individuals and the fishing industry. NMFS considered the public comments in making its decision on this action, and responds below to comments.

Comments on the Proposed Specifications

NMFS responds to comments on the proposed specifications, as follows:

Comment 1: Several commenters expressed support for the proposed 2017 longline bigeye tuna catch limit of 2,000 mt and said the limit is sustainable and balances the needs of the communities that rely on bigeye tuna, and the ability of the stock to repopulate.

Response: NMFS agrees and is satisfied that this action, which is identical to the catch and allocation limits we implemented in 2016 (81 FR 63145, September 14, 2016), addresses the conservation and management needs of the bigeye tuna in the Western and Central Pacific Ocean (WCPO) while taking into account the needs of fishing communities of the U.S. Pacific Islands.

Comment 2: One commenter said NOAA should allow for a maximum catch limit of 500 mt to account for unreported catches by poachers. The commenter also expressed concern that NOAA does not have sufficient enforcement resources to catch poachers, and that the proposed 2,000 mt catch limit will result in the species extinction.

Response: NMFS disagrees that it should reduce the limit to account for poaching by U.S. longline fishing vessels. NMFS has no evidence that poaching is an issue of management concern, and therefore has no basis to reduce the allocation limit. Regulations implementing the Pelagic FEP include numerous measures that minimize the potential for illegal and unreported catch in U.S. longline fisheries. Specifically, NMFS requires all U.S. longline vessels owners to install and maintain operational vessel monitoring systems. This allows NMFS to track the location of fishing vessels at all times and ensure vessels do not fish within any restricted fishing area or during a fishery closure.

NMFS also places a scientific observer on board longline vessels to document and record all catches made during observed fishing trips. Longline vessel operators must also maintain an accurate daily log of all catches, which NMFS can cross validate with observer records and market sales reports. Together, these measures provide NMFS with a reliable means to track the amount of fish caught by U.S. longline vessels from sea to market, and minimize the potential for illegal and unreported catch in the fishery.

NMFS also disagrees that the proposed action would result in the extinction of bigeye tuna. Bigeye tuna is not a species listed as, or proposed to be listed as, threatened or endangered under the Endangered Species Act (ESA), nor is it a candidate species for ESA listing. Moreover, NMFS has determined that the proposed action is consistent with the Western and Central Pacific Fisheries Commission's (WCPFC) objectives to conserve bigeye tuna at sustainable levels.

Comment 3: One commenter said the NMFS should state where exactly the authority to create catch limits comes from instead of just supplying the statute number.

Response: Bigeye tuna is managed by the WCPFC, of which the United States is a member. In Conservation and Management Measure (CMM) 2016–01, the WCPFC established bigeye longline catch limits for the United States and other members, while exempting small island developing states and Participating Territories to the WCPFC, including American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, from catch limits. CMM 2016–01 also provides that qualifying longline catches of vessels operated under contracts and leases with Participating Territories are to be attributed to those Territories. This action establishes bigeye longline limits for the three U.S. participating territories, a limited portion of which may be allocated to eligible vessels under specified fishing agreements, consistent with the WCPFC's conservation objectives for bigeye tuna. NMFS clarifies here that the authority to promulgate these fishing regulations arises from the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) and implementing regulations at 50 CFR 665.819.

Comment 4: One commenter said that vessels in the U.S. pelagic longline fishery have existing specified fishing agreements with U.S. territories but are unable to fish for bigeye tuna under those agreements until NMFS finalizes the proposed action.

Response: Specified fishing agreements may not be given effect until NMFS determines that the proposed catch and allocation limits are consistent with the Pelagic FEP, WCPFC decisions, other provisions of the Magnuson-Stevens Act, and other applicable laws. While the 2017 proposed catch and allocation limits are identical to the limits NMFS implemented in 2016, NMFS received new information relevant to the environmental analyses in the 2015 EA and 2016 Supplemental EA. NMFS was required to complete its analysis of this information and other relevant impacts prior to taking final action on the proposed catch and allocation limit specifications.

Comment 5: One commenter questions whether there is a factual basis to limit each territory to a 1,000 mt allocation limit, particularly in light of the 2017 Stock Assessment.

Response: The Council recommended the 1,000 mt allocation limit for each U.S. territory prior to the availability of the 2017 stock assessment for bigeye tuna, which was completed in August 2017. Utilizing the best scientific information available, NMFS has determined that this allocation limit is consistent with WCPFC objectives to conserve the bigeye stock. Although the new 2017 stock assessment may describe a somewhat more optimistic conservation status for bigeye tuna, NMFS considers its use for this management action to be premature. NMFS expects stock assessment authors to present the assessment results to the Western and Central Pacific Fisheries Commission (WCPFC) at its December 2017 meeting. We also expect the Council will consider the 2017 stock assessment and WCPFC decisions when recommending the future catch and

allocation limits for territorial longline fisheries.

Comment 6: One commenter said that cultural fishing rights are an important topic that needs recognition and that the proposed action can achieve the financial and cultural goals of the American Samoa vessels and protect populations of tuna.

Response: NMFS agrees and recognizes the importance of fishing to U.S. Pacific Island cultures. The action limits the amount of bigeye tuna that the U.S. territories may allocate to eligible vessels through specified fishing agreements to ensure that a sufficient amount of bigeye tuna is available to territorial fisheries. NMFS is satisfied that the catch and allocation limits addresses the conservation and management needs of the bigeye tuna in the WCPO while taking into account the needs of fishing communities.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fishery resources, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS published the factual basis for the certification in the proposed rule, and we do not repeat it here. NMFS received no comments on this certification; as a result, a regulatory flexibility analysis is not required, and none has been prepared.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016.

Pursuant to the RFA and prior to July 1, 2016, NMFS developed a certification for this regulatory action using SBA size standards. NMFS has reviewed the analyses prepared for this regulatory action in light of the new size standard. All of the entities directly regulated by this regulatory action are commercial fishing businesses and were considered small under the SBA size standards and, thus, they all would continue to be considered small under the new standard. Accordingly, NMFS has determined that the new size standard does not affect analyses prepared for this regulatory action.

This rule it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(1) because it is a substantive rule that relieves a restriction. This rule allows all U.S. vessels identified in a valid specified fishing agreement to resume fishing in the western and central Pacific Ocean (WCPO) after NMFS closed the longline fishery for bigeye tuna both there and in the eastern Pacific Ocean (EPO).

NMFS closed the U.S. pelagic longline fishery for bigeye tuna in the WCPO on September 1, 2017, because the fishery reached the 2017 catch limit (82 FR 37824, August 14, 2017). In addition, on September 8, 2017, NMFS closed the U.S. pelagic longline fishery for bigeye tuna for vessels greater than 24 m in the EPO because the fishery reached the 2017 catch limit (82 FR 41562, September 1, 2017). This final rule would relieve the restriction of the fishery closure in the WCPO by allowing all U.S. vessels to fish for bigeye tuna in the WCPO under a valid specified fishing agreement with one or more U.S territory. This would alleviate some of the impacts to the U.S. pelagic longline fishery resulting from the two fishery closures, and may provide positive economic benefits for the fishery and associated businesses, and net benefits to the public and the Nation.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

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

Dated: October 6, 2017.

Samuel D. Rauch III,

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

[FR Doc. 2017–22155 Filed 10–10–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 197
Friday, October 13, 2017

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.

SMALL BUSINESS ADMINISTRATION

[Docket No. SBA–2017–0005]

13 CFR Chapter I

Reducing Unnecessary Regulatory Burden

AGENCY: U.S. Small Business Administration.

ACTION: Request for information; extension of comment period.

SUMMARY: On August 15, 2017, the Small Business Administration (SBA or Agency) published in the **Federal Register** a request for information seeking input from the public on identifying which of the Agency's regulations should be repealed, replaced or modified because they are obsolete, unnecessary, ineffective, or burdensome. That request established a 60-day comment period closing on October 16, 2017. SBA is extending the public comment period for 30 days, until November 15, 2017.

DATES: The comment period for the request for information published on August 15, 2017 (82 FR 38617) is extended. Comments are requested on or before November 15, 2017.

ADDRESSES: You may submit comments, identified by Docket Number SBA–2017–0005, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Identify comments by ''Docket Number SBA–2017–0005, Reducing Regulatory Burden RFI,'' and follow the instructions for submitting comments.

Mail: Holly Turner, Regulatory Reform Officer, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post all comments on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the information to Holly Turner, 409 Third Street SW., Washington, DC 20416. Highlight the information that you consider to be CBI, and explain why you believe this information should be held confidential. SBA will review the information and make the final determination as to whether to publish the information.

FOR FURTHER INFORMATION CONTACT: Holly Turner, (202) 205–6335, 409 Third Street SW., Washington, DC 20416; email address: *IGA@sba.gov.*

SUPPLEMENTARY INFORMATION: On August 15, 2017, in accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' SBA published a request for information seeking input from the public on identifying which of the Agency's regulations should be repealed, replaced or modified because they are obsolete, unnecessary, ineffective, or burdensome (82 FR 38617). That request established a 60-day comment period, closing on October 16, 2017. To ensure that all interested parties are provided ample time and opportunity to submit comments, SBA is extending the public comment period for an additional 30 days. Comments must be submitted to SBA no later than November 15, 2017.

Authority: 15 U.S.C. 634(b)(6); E.O. 13771; E.O. 13777.

Dated: October 6, 2017.

Holly Turner,

Regulatory Reform Officer.

[FR Doc. 2017–22130 Filed 10–12–17; 8:45 am]

BILLING CODE 8025–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1252

[Docket No. CPSC–2017–0038]

Children's Products, Children's Toys, and Child Care Articles: Determinations Regarding Lead, ASTM F963 Elements, and Phthalates for Engineered Wood Products

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission (Commission, or CPSC) is proposing a rule to determine that certain untreated and unfinished engineered wood products (EWPs), specifically, particleboard, hardwood plywood, and medium-density fiberboard, made from virgin wood or pre-consumer waste wood would not contain lead, the ASTM F963 elements, or specified phthalates that exceed the limits set forth under the CPSC's statutes for children's products, children's toys, and child care articles. Based on these proposed determinations, the specified EWPs would not be required to have third party testing for compliance with the requirements for lead, ASTM F963 elements, or phthalates for children's products, children's toys, and child care articles.

DATES: Submit comments by December 27, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2017–0038, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing by mail/hand delivery/courier.

FOR FURTHER INFORMATION CONTACT: Jacqueline Campbell, Senior Textile Technologist, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850: Telephone 301–987–2024; email: *jcampbell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Third Party Testing and Burden Reduction

Section 14(a) of the Consumer Product Safety Act, (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires that manufacturers of products subject to a consumer product safety rule or similar rule, ban, standard, or regulation enforced by the CPSC, must certify that the product complies with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). For children's products, children's toys, and child care articles, certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body. *Id.* Public Law 112–28 (August 12, 2011) directed the CPSC to seek comment on ''opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.'' Public Law 112–28 also authorized the Commission to issue new or revised third party testing regulations if the Commission determines ''that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' *Id.* 2063(d)(3)(B).

To provide opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulations, the CPSC assessed whether children's products, children's toys, and child care articles manufactured with three engineered wood products, specifically, particleboard, hardwood plywood, and medium-density fiberboard (collectively referred to as EWPs), would comply with CPSC's requirements for lead, ASTM F963 elements or phthalates. If the Commission determines that such materials will comply with CPSC's requirements with a high degree of assurance, manufacturers do not need to have those materials tested by a third party testing laboratory to issue a Children's Product Certificate (CPC).

2. CPSC's Lead Standard

Section 101 of the CPSIA has two requirements associated with lead in children's products. 15 U.S.C. 1278a. First, no accessible part of a children's product may contain more than 100 parts per million (ppm) lead content. Second, paint or other surface coatings on children's products and furniture intended for consumer use may not contain lead in concentrations greater than 90 ppm. Manufacturers of children's products must certify, based on third party testing, that their products comply with all relevant children's product safety rules. Thus, products subject to the lead content or paint/surface coating limits require passing test results from a CPSC-accepted third party laboratory for the manufacturer to issue a CPC, before the products can be entered into commerce.

To alleviate some of the third testing burdens associated with lead in the accessible component parts of children's products, the Commission determined that certain materials, including gemstones, precious metals, wood, paper, CMYK process printing inks, textiles, and specified stainless steel, do not exceed the 100 ppm lead content limit under section 101 of the CPSIA. Based on this determination, such materials do not require third party testing for the lead content limits. The determinations regarding lead content for certain materials are set forth in 16 CFR 1500.91.

3. ASTM F963 Elements

Section 106 of the CPSIA provides that the provisions of ASTM International, *Consumer Safety Specifications for Toy Safety* (ASTM F963), shall be considered to be consumer product safety standards issued by the Commission.[1] 15 U.S.C. 2056b. The Commission has issued a rule that incorporates by reference the relevant provisions of ASTM F963. 16 CFR part 1250. Thus, children's toys subject to ASTM F963 must be tested by a CPSC-accepted third party laboratory and demonstrate compliance with all applicable CPSC requirements for the manufacturer to issue a CPC before the children's toys can be entered into commerce.

Section 4.3.5 of ASTM F963 requires that surface coating materials and accessible substrates of children's toys that can be sucked, mouthed, or ingested[2] must comply with the solubility limits of eight elements given in Table 1 of the toy standard. The materials and their solubility limits are shown in Table 1. We refer to these eight elements as ''ASTM F963 elements.''

TABLE 1—MAXIMUM SOLUBLE MIGRATED ELEMENT IN ppm (mg/kg) FOR SURFACE COATINGS AND SUBSTRATES INCLUDED AS PART OF A TOY

Elements	Solubility limit, (ppm)[3]
Antimony (Sb)	60
Arsenic (As)	25
Barium (Ba)	1,000
Cadmium (Cd)	75
Chromium (Cr)	60
Lead (Pb)	90
Mercury (Hg)	60
Selenium (Se)	500

The third party testing burden could be reduced only if all elements listed in section 4.3.5 have concentrations below their solubility limits. Because third party conformity assessment bodies typically run one test for all of the ASTM F963 elements, no testing burden reduction would be achieved if any one of the elements requires testing.

To alleviate some of the third testing burdens associated with the ASTM F963 elements in the accessible component parts of children's toys, the Commission determined that certain unfinished and untreated trunk wood does not contain ASTM F963 elements that would exceed the limits specified in section 106 of the CPSIA. Based on this determination, unfinished and untreated trunk wood would not require third party testing for the ASTM F963 elements. The determinations regarding the ASTM F963 elements limits for certain materials is set forth in 16 CFR 1251.2.

4. Phthalates

Section 108(a) of the CPSIA permanently prohibits the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of any ''children's toy or child care article'' that contains concentrations of more than 0.1 percent of di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or butyl benzyl

[1] ASTM F963 is a consumer product safety standard, except for section 4.2 and Annex 4, or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute.

[2] ASTM F963 contains the following note regarding the scope of the solubility requirement: NOTE 4—For the purposes of this requirement, the following criteria are considered reasonably appropriate for the classification of children's toys or parts likely to be sucked, mouthed or ingested: (1) All toy parts intended to be mouthed or contact food or drink, components of children's toys which are cosmetics, and components of writing instruments categorized as children's toys; (2) Children's toys intended for children less than 6 years of age, that is, all accessible parts and components where there is a probability that those parts and components may come into contact with the mouth.

[3] The method to assess the solubility of a listed element is detailed in section 8.3.2, *Method to Dissolve Soluble Matter for Surface Coatings,* of ASTM F963. Modeling clays included as part of a toy have different solubility limits for several of the elements.

phthalate (BBP). 15 U.S.C. 2057c(a). Section 108(b)(1) prohibits on an interim basis (*i.e.,* until the Commission promulgates a final rule), the manufacture for sale, offer for sale, distribution in commerce, or importation into the United States of ''any children's toy that can be placed in a child's mouth'' or ''child care article'' containing concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-*n*-octyl phthalate (DnOP). 15 U.S.C. 2057c(b)(1). Children's toys and child care articles subject to the content limits in section 108 of the CPSIA require third party testing for compliance with the phthalate content limits before the manufacturer can issue a CPC and enter the children's toys or child care articles into commerce.

The CPSIA required the Commission to appoint a Chronic Hazard Advisory Panel (CHAP) to ''study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.'' 15 U.S.C. 2057c(b)(2). The CHAP issued its report in July 2014.[4] Based on the CHAP report, the Commission published a notice of proposed rulemaking (Phthalates NPR),[5] proposing to permanently prohibit children's toys and child care articles containing concentrations of more than 0.1 percent of DINP, and proposing to lift the interim statutory prohibitions with respect to DIDP and DnOP. In addition, the Phthalates NPR proposed adding four new phthalates, DIBP, DPENP, DHEXP, and DCHP, to the list of phthalates that cannot exceed 0.1 percent concentration in accessible component parts of children's toys and child care articles. The Commission has not finalized its proposal on phthalates in children's toys and child care articles.

Tests for phthalate concentration are among the most expensive certification tests to conduct on a product, and each accessible component part subject to section 108 of the CPSIA must be tested.[6] Third party testing burden reductions can occur only if each phthalate's concentration is below 0.1 percent (1000 ppm). Because laboratories typically run one test for all of the specified phthalates, no testing burden reduction likely is achieved if any one of the phthalates requires compliance testing.

To alleviate some of the third testing burdens associated with plastics in the accessible component parts of children's toys and child care articles, the Commission determined that products made with general purpose polystyrene (GPPS), medium-impact polystyrene (MIPS), high-impact polystyrene (HIPS), and super high-impact polystyrene (SHIPS) with specified additives do not exceed the phthalates content limits under section 108 of the CPSIA. 82 FR 41163 (August 30, 2017). Based on this determination, materials used in children's toys and child care articles that use these specified plastics and additives would not require third party testing for the phthalates content limits. The plastics determinations are set forth in the Commission's regulations at 16 CFR part 1308.

The research that provides the basis for the phthalates determination covers the six phthalates subject to the statutory prohibition and the additional phthalates that the Commission proposed to prohibit from use in children's toys and child care articles. After the Commission finalizes its phthalates rule, the Commission will revise its phthalate determination rule to reflect the phthalates restricted by the final phthalates rule.

B. Contractor's Research

CPSC contracted with the Toxicology Excellence for Risk Assessment (TERA)[7] who authored literature review reports on the content issues related to certain natural materials, plastics, and EWPs. The following reports produced by TERA formed the basis for the proposed EWP determinations: Task 9, *Concentrations of Selected Elements in Unfinished Wood and Other Natural Materials;* Task 11, *Exposure Assessment: Composition, Production, and Use of Phthalates;* and Task 14, *Final Report for CPSC Task 14,* which summarized the available information on the production of the EWPs. Each report is discussed below.

1. TERA Task 9 Report

In the Task 9 Report, TERA conducted a literature search on whether unfinished wood and other natural materials could be determined not to contain any of the ASTM F963 elements in concentrations greater than the ASTM F963 solubility limits.[8] The materials researched included unfinished woods (ash, beech, birch, cherry, maple, oak, pine, poplar, and walnut); bamboo; beeswax; undyed and unfinished fibers and textiles (cotton, wool, linen, and silk); and uncoated or coated paper (wood or other cellulosic fiber).

To assess the presence of the ASTM F963 elements' concentrations in the materials, TERA looked at several factors. The factors reviewed included the presence and concentrations of the elements in the environmental media (*e.g.,* soil, water, air), and in the base materials for the textiles and paper; whether processing has the potential to introduce any of the ASTM F963 elements into the material under study; and the potential for contamination after production, such as through packaging. From this report, the Commission determined that untreated and unfinished woods from tree trunks do not contain any of the elements in ASTM F963 in concentrations greater than their respective solubility limits, and thus, they are not required to be third party tested to ensure compliance with the specified solubility test.[9] TERA relied on this information in TERA Task Report 14 to determine that the virgin wood material used in the manufacture of EWPs does not, and will not, contain any of the elements in ASTM F963 in concentrations greater than their respective solubility limits.

2. TERA Task 11 Report

In the Task 11 Report, TERA conducted a literature search on the production and use of 11 specified phthalates in consumer products.[10] The 11 phthalates researched by TERA were based on the recommendations made in the CHAP report. Table 2 lists the phthalates researched by TERA. TERA's research focused on the following factors:

- The raw materials used in the production of the specified phthalates;
- The manufacturing processes used worldwide to produce the specified phthalates;
- Estimated annual production of the specified phthalates;
- Physical properties of the specified phthalates (*e.g.,* vapor pressure, flashpoint, water solubility, temperature at which chemical breakdown occurs);

[4] *http://www.cpsc.gov/PageFiles/169902/CHAP-REPORT-With-Appendices.pdf.*

[5] *https://www.federalregister.gov/articles/2014/12/30/2014-29967/prohibition-of-children's-toys-and-child-care-articles-containing-specified-phthalates.*

[6] Test costs for the content of all the specified phthalates have been reported to range from $125 to $350 per component, depending upon where the tests are conducted and any discounts that might apply.

[7] After conducting the contract reports for the CPSC, TERA reorganized as the Risk Science Center at the University of Cincinnati: *https://med.uc.edu/eh/centers/rsc.*

[8] *http://www.cpsc.gov/Global/Research-and-Statistics/TechnicalReports/Toys/TERAReportASTMElements.pdf.*

[9] 80 FR 78651 (Dec. 17, 2015).

[10] *http://www.cpsc.gov//Global/Research-and-Statistics/Technical-Reports/Other%20Technical%20Reports/TERAReportPhthalates.pdf.*

• Applications for phthalates use in materials and consumer and non-consumer products; and

• Other potential routes by which phthalates can be introduced into an otherwise phthalates-free material (*e.g.,* migration from packaging, recycling, reuse, product breakdown).

TABLE 2—PHTHALATES RESEARCHED IN THE TASK 11 REPORT

Phthalate	CASRN [11]
DEHP: di-(2-ethylhexyl) phthalate	117–81–7
DBP: dibutyl phthalate	84–74–2
BBP: benzyl butyl phthalate	85–68–7
DINP: diisononyl phthalate	28553–12–0, 68515–48–0
DIDP: diisodecyl phthalate	26761–40–0, 68515–49–1
DnOP: di-n-octyl phthalate	117–84–0
DIOP: diisooctyl phthalate	27554–26–3
DIBP: diisobutyl phthalate	84–69–5
DPENP: di-n-pentyl phthalate	131–18–0
DHEXP: di-n-hexyl phthalate	84–75–3
DCHP: dicyclohexyl phthalate	84–61–7

TERA found that phthalates are used generally as plasticizers or softeners of certain plastics, primarily polyvinyl chloride (PVC), as solvents, and as component parts of inks, paints, adhesives, and sealants.

3. TERA Task 14 Report

In the Task 14 Report, TERA conducted a literature search on the production of three EWPs: Particleboard, hardwood plywood, and medium-density fiberboard.[12] TERA first researched authoritative sources, such as reference books and textbooks, along with Internet resources, for general information about EWPs, adhesives, raw materials, manufacturing processes, and the potential use of recycled materials. TERA used this information and consulted technical experts to identify key words for searching the literature. These key words were then used to conduct primary literature searches for research studies and publications. In addition, TERA searched for Safety Data Sheets (SDS) for information on raw materials. TERA researched the possibility of the raw materials or finished products in the three EWPs to contain:

• Lead in concentrations exceeding 100 ppm;

• Any of the specified elements that are included in the safety standard for children's toys, ASTM F963, *Standard Consumer Safety Specification for Toy Safety,* in concentrations exceeding specified solubility limits; or

• Any of 10 specified phthalates in concentrations greater than 0.1 percent (1000 ppm), listed in Table 3.[13]

TABLE 3—PHTHALATES RESEARCHED IN THE TASK 14 REPORT [14]

Phthalate	CASRN
DEHP: di-(2-ethylhexyl) phthalate	117–81–7
DBP: dibutyl phthalate	84–74–2
BBP: benzyl butyl phthalate	85–68–7
DINP: diisononyl phthalate	28553–12–0, 68515–48–0
DIDP: diisodecyl phthalate	26761–40–0, 68515–49–1
DnOP: di-n-octyl phthalate	117–84–0
DIBP: diisobutyl phthalate	84–69–5
DPENP: di-n-pentyl phthalate	131–18–0
DHEXP: di-n-hexyl phthalate	84–75–3
DCHP: dicyclohexyl phthalate	84–61–7

TERA found that, generally, the processes for manufacturing the three EWPs are similar; wood fibers, chips, layers, or a similar raw wood product are processed with various adhesive formulations (sometimes referred to as binders or resins) along with other additives to create uniform sheets with known characteristics and performance qualities. The main difference among the three types of EWPs relates primarily to the size and morphology (shape and surface characteristics) of the wood material used in their production.

TERA reviewed the literature to assess whether the specified EWPs might contain lead or one or more of the other elements at levels that exceed the ASTM solubility limits, or any of the specified phthalates in concentrations greater than the specified limits. TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than their limits in particleboard, hardwood plywood, or medium-density fiberboard, that are unfinished and untreated, and made from virgin wood or pre-consumer wood waste.

In the Task 14 Report, TERA described an unfinished EWP as one that does not have any surface treatments applied at manufacture, such

[11] A CAS Registry Number is assigned to a substance when it enters the CAS REGISTRY database. *https://www.cas.org/content/chemical-substances/faqs.*

[12] *https://www.cpsc.gov/s3fs-public/ManufacturedWoodsTERATask14Report.pdf.*

[13] The TERA research providing the basis for this determination covers the six phthalates subject to the statutory prohibition, as well as the additional phthalates the Commission proposed to prohibit in children's toys and child care articles. The phthalates determination lists only the six phthalates subject to the statutory prohibition. However, when the Commission issues a final rule for the specified phthalates in children's toys and child care articles, the Commission could revise the phthalates determination, if needed.

[14] While included in the Task 11 Report, DIOP was not included in the Task 14 Report because the ban on DIOP was proposed to be removed in the Phthalates NPR.

as factory-applied coatings. An untreated EWP is one that does not have any additional finishes applied at manufacture such as flame retardants or rot resistant finishes. TERA described virgin wood as wood logs, fibers, chips, or layers that have not been recycled from a previous use. TERA described pre-consumer wood waste as wood materials that have been recycled from an industrial process before being made available for consumer use. Examples of this type of waste include trimmings from EWP panel manufacturing, sawdust from cutting logs, or remaining wood pieces from sawing a log into framing lumber.

The TERA report highlighted the potential for lead, the ASTM F963 elements, or the specified phthalates to be present in concentrations greater than those specified through the use of contaminated recycled material in EWPs made from recycled wood waste or EWPs that have post-manufacturing treatments or finishes. Recycled wood waste may be made from reclaimed or post-consumer wood waste. Post-consumer wood waste is described as wood waste that is comprised of materials that are recovered from their original use and subsequently used in a new product. Examples of this type of waste include recycled demolition wood, packaging materials such as pallets and crates, used wood from landscape care (*i.e.,* from urban and highway trees, hedges, and gardens), discarded furniture, and waste wood from industrial, construction, and commercial activities.

The three types of EWPs reviewed by TERA are discussed below.

a. Particleboard

Particleboard is a composite of wood chips, adhesives, and other additives pressed into a board. Adhesive formulations are used to bond wood chips, which are then formed into mats that are layered to create uniform boards in a range of dimensions. Particleboard is used widely in furniture making and other interior (or nonstructural) uses. The constituent parts of particleboard reported by TERA can include (by weight):

- Wood (60–99+ percent);
- Adhesive formulation (0–17 percent, with 5–11 percent most common)
- May include phenol-formaldehyde (uncommon but potential for use), urea-formaldehyde, melamine-urea-formaldehyde, polymeric methylene-diphenyl-diisocyanate (pMDI);
- Waxes (0.3–1 percent);
- Other additives (up to 2 percent); or
- Scavengers or additional unspecified materials.

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates, in concentrations greater than their specified limits in particleboard. TERA identified little information on measurements of lead and the ASTM F963 elements in particleboard and no studies that measured the specified phthalates. TERA identified two references where particleboard made from both untreated and copper chromate arsenic-(CCA) treated wood chips was tested. Arsenic and chromium were undetected in the particleboards made from virgin wood chips. However, the particleboard composed of 25 percent wood chips from reclaimed CCA-treated wood products contained 895 and 832 ppm of arsenic and chromium, respectively, without adversely affecting the mechanical performance of the board. Another study that discussed ''recycled particleboard'' was identified as wood waste obtained from a wood recycling plant.

Apart from the studies on particleboard made from wood waste that may contain post-consumer wood waste or post-manufacturing treatments, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished particleboard.

b. Hardwood Plywood

Plywood is a layered board of wood veneers where the layers have alternating, perpendicular wood grain directions. Less commonly, the board might have a core of other EWPs with wood veneers as the outer layers. Hardwood plywood, addressed in this report, is a type of plywood that is composed of angiosperms (*i.e.,* ''hardwoods,'' such as oak or maple) and used primarily in furniture and other interior (nonstructural) uses, as well as in playground equipment, sports equipment, and musical instruments. The constituent parts of hardwood plywood reported by TERA can include (by weight):

- Wood (75–99+ percent);
- Adhesive formulation (0.02–20 percent, with 1 percent to 5 percent most common)
- May include phenol-formaldehyde or phenol-resorcinol-formaldehyde (likely for use in structural plywood but potential for application to hardwood plywood), urea-formaldehyde, melamine-formaldehyde, or melamine-urea-formaldehyde, or polyvinyl acetate (PVAc); or
- Other additives (less than 2 percent).

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than those specified in hardwood plywood. TERA identified only one study that measured lead and the ASTM F963 elements in plywood and no studies that measured the specified phthalates. Concentrations of cadmium, chromium, and lead, were all less than the solubility limits, in ''plain'' plywood. In addition, because hardwood plywood is made from sheets of wood veneer, it is less likely to contain recycled wood content, unless it incorporates a core of some other EWP, such as particleboard or medium-density fiberboard.

Aside from the studies on recycled wood waste that may contain post-consumer wood waste or post-manufacturing treatments in a particleboard, medium-density fiberboard, or other EWP core, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished hardwood plywood. However, TERA identified research which indicated that polyvinyl acetate (PVAc) can be used as an adhesive system for hardwood plywood as discussed in section (d) below.

c. Medium-Density Fiberboard

Medium-density fiberboard (MDF) is a composite of wood fibers, an adhesive formulation, and other additives pressed into a board. MDF is a similar product to particleboard, differing mostly due to the use of fiber rather than chips. It is used primarily in furniture and other interior (nonstructural) uses. The constituent parts of MDF reported by TERA can include (by weight):

- Wood (73–99+ percent);
- Adhesive formulation (0–25 percent with most common 5–12 percent);
- May include phenol-formaldehyde (uncommon, but potentially used for moisture resistance), urea-formaldehyde (most commonly identified), methylene-diphenyl-diisocyanate (pMDI), melamine-formaldehyde, or melamine-urea-formaldehyde;
- Waxes (less than 1 percent); or
- Other additives (10–30 percent).

TERA researched the possibility of lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than those specified in MDF. TERA did not identify any references that reported the presence of lead, the ASTM F963 elements, or the specified phthalates in MDF made with virgin wood.

Aside from the studies on recycled wood waste that may contain post-consumer wood waste or post-manufacturing treatments, TERA reported that no studies found lead, the ASTM F963 elements, or the specified phthalates in concentrations greater than the specified limits in untreated and unfinished MDF.

d. TERA's Findings on EWP Constituent Parts

Because few references were found directly addressing lead, the ASTM F963 elements, and the specified phthalates in EWPs, TERA also researched the constituent parts that could be used to manufacture EWPs, including wood and adhesives.

Wood

According to the manufacturing process information provided by TERA, virgin wood and wood residues are the main source of wood fiber used in North America to manufacture EWPs. Typically, these sources include low value logs, industrial wood residues, or scraps and trim from furniture and EWP production. For example, hardwood plywood requires the trunks of trees to obtain the thin layers of veneer used to construct a sheet. TERA relied on the Task 9 Report and Commission findings on unfinished and untreated wood (80 FR 78651 (Dec. 17, 2015)) to determine that untreated and unfinished wood from the trunks of trees do not contain lead or the ASTM F963 elements in concentrations greater than the specified solubility limits. TERA also noted that, although phthalates can be taken up by trees and plants, the concentrations are negligible and less than the specified limit (0.1 percent).

Although TERA reported that the majority of EWPs are manufactured with virgin wood or pre-consumer wood waste fiber or chips, the wood component also can originate from recycled material. For EWPs made from recycled wood waste that may contain post-consumer wood waste, the TERA report highlighted the potential for lead, the ASTM F963 elements, or the specified phthalates to be present in concentrations greater than those specified through the use of contaminated recycled material. The TERA report cited multiple examples of the use of reclaimed or post-consumer wood material used to produce EWPs, both domestically and internationally. Specifically, TERA found studies showing that reclaimed lumber and wood waste could contain a myriad of contaminants, such as surface treatments (*e.g.,* paints, stains), metals, glues and adhesives, glass, paper, plastic, rubber and chemical treatments. Metals and organic materials may be present in paints, stains, varnishes, and polishes that are used on wood products (*e.g.,* furniture, window frames) and nails, screws, and other metal hardware might be attached to the recycled and recovered wood. These contaminants are intimately attached to the wood, and therefore, some contaminants may pass through cleaning systems, contaminating the entire recovered wood stream.

TERA also reviewed another study, based in Italy that evaluated the ''recyclability'' of used wood by conducting elemental analysis of wood residues from wood recycling plants using a handheld fast energy dispersive X-ray fluorescence spectroscopy (ED–XRF) device. TERA found that the study provided some indication of types and levels of contamination in various kinds of post-consumer wood waste. Elemental analysis results were compared to EU Community Ecolabel limits.[15] For all wood products tested, 16 percent exceeded one or more of the Ecolabel limits, with the highest concentrations from lead, chromium, chlorine, copper, cadmium, and mercury. No samples had levels of arsenic over the 25 ppm limit (except a CCA-treated utility pole). Barium and lead were found in 10 percent to 20 percent of the samples, chromium and cadmium in 3 percent to 4 percent, and antimony, mercury, and arsenic ranged from 0.3 percent to 1.2 percent of samples. The sources most contaminated with non-wood content were from furniture and building materials, while pallets and shipping containers were least likely to be contaminated.[16]

TERA concluded that, with an increased interest and use of post-consumer recycled materials in EWP production, potential contamination by the specified elements and phthalates must be considered. To ensure that EWPs made from used wood fibers do not contain ASTM F963 elements or phthalates the exceed the specified limits, TERA indicated that the materials would need to be sorted carefully and tested to be assured that they are not contaminated.

Adhesive Formulations

Adhesive formulations hold the wood chips, layers, or fibers together to make EWP mats and sheets. Some of the formulations use a metal catalyst during the curing process. TERA identified a number of references describing the presence of the ASTM F963 elements in adhesive formulations. However, TERA found very few references that would implicate EWPs. Although the use of barium was noted in multiple references, only one study appeared to be relevant to EWPs. This study suggested that barium, when used as a catalyst in an adhesive, could result in an EWP that exceeded the ASTM solubility level for barium.[17] However, this method does not appear to be used currently in EWP production. TERA also noted studies that indicate the possible use of chromium as a catalyst in phenol formaldehyde resin as well as the possible use of antimony or arsenic in a drier formulation for certain polymeric coatings. However, no references included information on concentrations or appeared relevant to EWPs.

Although many different adhesive formulations may be used in hardwood plywood, TERA noted that PVAc can be used as an adhesive system for hardwood plywood. The report cited sources (The Handbook of Adhesive Technology, USDA) that mentioned the use of some of the specified phthalates in PVAc adhesive formulations.[18] TERA also identified research papers which included the use of DBP and DEHP in PVAc at concentrations greater than 0.1 percent.

[15] Ecolabel element concentrations are less than 25 mg/kg of arsenic, 25 mg/kg of mercury, 25 mg/kg of chromium, 50 mg/kg cadmium, 90 mg/kg lead, and 40 mg/kg copper (EU, 2004). Ecolabel limits are similar to ASTM solubility limits for the ASTM F963 elements.

[16] Twenty-four percent of furniture and 18 percent of building materials had one or more ASTM F963 elements exceeding the limits which may be due to manufacturing processes such as painting, preservation, and overlaying, which are common with furniture and building materials. The most polluted types of wood waste were particleboard (37% exceeded Ecolabel limits), recycled particleboard (25% exceeded), and plywood (18% exceeded); while fiberboard (MDF and HDF) exceeded limits in 9 percent of samples.

[17] Wang and Zhang (2011) studied the use of calcium hydroxide, $Ba(OH)_2$, and magnesium hydroxide and their effect on cure times for phenol formaldehyde adhesive formulations, finding that the use of $Ba(OH)_2$ could be a viable means to speed up cure times. Both calcium hydroxide and $Ba(OH)_2$ had similar cure times and are about the same price in bulk. Because the compounds would be used in an adhesive system, the catalyst is not expected to be recovered and so would remain in situ once curing is complete. If the catalyst remained in the adhesive, it could result in concentrations of barium exceeding the ASTM solubility limits.

[18] The USDA publication Wood Handbook: Wood as an Engineering Material (2010) explains that ''Plasticizers, for example dibutyl phthalate, are used to soften the brittle vinyl acetate homopolymer in poly(vinyl acetate) emulsion adhesives. This is necessary to facilitate adhesive spreading and formation of a flexible adhesive film from the emulsion at and below room temperature.''

C. CPSC Staff Analysis of TERA Reports

1. EWPs Made From Virgin Wood or Pre-Consumer Wood Waste

CPSC staff reviewed the TERA Task 9, 11 and 14 Reports. CPSC staff also examined TERA's source references to better understand the reports' findings. CPSC's review of TERA's Task 14 Report showed that there were few studies characterizing the content of EWPs, as manufactured, in relation to lead and the ASTM F963 elements, and no studies were found on the phthalates of interest. Where there were studies, staff's review of the TERA report showed there was no evidence that untreated and unfinished EWPs made from virgin wood or pre-consumer wood waste, using generally used manufacturing practices and materials, had content levels greater than the specified limits.

Staff finds that, based on the TERA reports, untreated and unfinished EPWs (particleboard, hardwood plywood, and medium-density fiberboard) made from virgin wood or pre-consumer wood waste, do not contain lead, or any of the specified elements in ASTM F963 that exceed the specified limits. In addition, with the exception of hardwood plywood that contains PVAc adhesive formulations, discussed further in this section, the specified EWPs do not contain any of the specified phthalates in concentrations greater than 0.1 percent.

2. EWPs Made From Reclaimed or Post-Consumer Wood Waste

The TERA Task 14 Report highlighted the risk of introducing materials contaminated with lead, the ASTM F963 elements, and the specified phthalates when using reclaimed or post-consumer wood waste to manufacture EWPs. Staff is aware that there is increasing interest in using recycled materials, rather than landfilling. Environmentally oriented initiatives encourage recycled wood content, especially in the European Union (E.U.). The E.U. Waste Framework Directive requires recycling or reuse of at least 70 percent of construction and demolition waste in member states by 2020.[19]

Staff's review of TERA's reclaimed or post-consumer waste assessment in EWPs indicates that, although most manufacturing in the Americas currently does not use post-consumer wood waste as a constituent part, EWPs with post-consumer wood content are not only technologically feasible, but also are currently available. Although the majority of the post-consumer wood waste used to manufacture EWPs is ''clean,'' consisting of wood pallets, spools, or shipping crates, reclaimed materials could be contaminated with paint, coatings, or chemical treatments. There are some standards (*e.g.,* European Panel Federation, E.U. Community Ecolabel) for EWPs with content requirements that roughly align with the ASTM F963 requirements; however, many are voluntary and have no third party testing requirements.

Staff notes that manufacturers do have an incentive to avoid contamination of EWPs because the addition of recycled materials could be detrimental to manufacturing equipment or the finished product's performance. Surface coatings, such as paint or stains, metals from nails or fasteners, adhesive formulations, such as resins or glues, and other non-wood content can potentially damage equipment, stop a production line, or adversely impact the uniformity of the product. However, staff is not aware of any current manufacturer processing protocols that would keep unwanted contaminants out of EWP manufacturing. Because of the contamination issues identified, the staff does not have a high degree of assurance that EWPs made from post-consumer wood waste are compliant with sections 101, 106, or 108 of the CPSIA at this time.

3. EWPs With Post-Manufacturing Treatments or Finishes

Staff's review of the Task 14 Report shows that most consumer products made from EWPs will have some additional treatments or finishes that are applied to the EWPs after their manufacture. TERA's report identified that certain surface treatments (*e.g.,* paints, stains), metals, glues and adhesives, glass, paper, plastic, rubber and chemical treatments may be added to EWPs. Metals and organic materials may be present in paints, stains, varnishes, and polishes that are used on wood products (*e.g.,* furniture, window frames) and nails, screws, and other metal hardware might be attached to the recycled and recovered wood.

Staff's review shows that post-manufacturing treatments or finishes made be applied to EWPs manufactured from virgin or pre-consumer wood waste, as well as EWPs manufactured from post-consumer wood waste. Such treatments or finishes may include paint or similar surface coating materials, flame retardants, rot resistant finishes, wood glue, or metal fasteners. The TERA report indicated that coatings, finishes, and chemical treatments, such flame-retardant coatings or rot resistant finishes, are a potential source of phthalates or the ASTM F963 elements. Staff's review of EWPs that have post-manufacturing treatments or finishes shows that there is potential for lead, the ASTM F963 elements, or the specified phthalates to be present in concentrations greater than at the specified levels. Unless a post-manufacture treatment or finish has been determined by the CPSC to be compliant with sections 101, 106, or 108 of the CPSIA,[20] staff does not have a high degree of assurance that EWPs that have post-manufacturing treatments or finishes are compliant with sections 101, 106, or 108 of the CPSIA at this time.

4. Adhesive Formulations in EWPs

The Task 14 Report generally found that there was little evidence to suggest that the ASTM F963 elements are likely to be present in any of the commonly used adhesives in concentrations greater than the ASTM solubility limits. Staff notes, that although one study suggested that barium, when used as a catalyst in an adhesive, could result in an EWP that exceeded the ASTM solubility level for barium, this method does not appear to be used currently in EWP production.

Staff's review of the Task 11 Report indicates that phthalates could be used in some adhesive formulations, including in PVAc adhesives, such as wood or craft glues. In addition, the Task 14 Report identified the adhesive formulations used in the manufacture of EWPs and found that one, PVAc, could contain at least one of the specified phthalates. TERA also reported that PVAc could be used in hardwood plywood manufacturing. However, TERA was unable to identify whether the specific PVAc adhesive formulations used currently in the manufacture of hardwood plywood contained any of the specified phthalates in concentrations greater than the specified limits.

CPSC staff research indicates that PVAc may be associated with the manufacture of hardwood plywood, consistent with TERA's finding. One manufacturer of EWP adhesive formulations provided information through a contact at the USDA Forest Products Laboratory. The manufacturer confirmed that, while current formulations no longer use phthalates, PVAc adhesive formulations they manufacture contained phthalates in the past. The manufacturer also stated that there is greater use of PVAc adhesive formulations in hardwood plywood

[19] *http://ec.europa.eu/environment/waste/construction_demolition.htm.*

[20] *See* 16 CFR 1500.91; 16 CFR 1250.2; 16 CFR part 1308.

than indicated in the TERA report, perhaps due to an increasing interest in lowering formaldehyde emissions from EWPs. Because of the lack of information regarding the use of PVAc adhesives containing the specified phthalates in concentrations greater than those allowed, staff does not have a high degree of assurance that EWPs that include PVAc adhesive formulations in hardwood plywood are compliant with sections 101, 106, or 108 of the CPSIA at this time.

D. Determinations for EWPs

1. Legal Requirements for a Determination

As discussed in section A.1. of the preamble, section 14(a)(2) of the CPSA requires third party testing for children's products that are subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Children's products must comply with the lead limits in section 101 of the CPSIA. 15 U.S.C. 1278a. Children's toys must comply with the solubility limits for elements under the ASTM toy standard in section 106 of the CPSIA. 15 U.S.C. 2056b. Children's toys and child care articles must comply with the phthalates prohibitions in section 108 of the CPSIA. 15 U.S.C. 2057c. In response to statutory direction, the Commission has investigated approaches that would reduce the burden of third party testing while also assuring compliance with CPSC requirements. As part of that endeavor, the Commission has considered whether certain materials used in children's products, children's toys, and child care articles would not require third party testing.

To issue a determination that an EWP does not require third party testing, the Commission must have sufficient evidence to conclude that the product consistently complies with the CPSC requirements to which the EWP is subject so that third party testing is unnecessary to provide a high degree of assurance of compliance. Under 16 CFR part 1107 section 1107.2, ''a high degree of assurance'' is defined as ''an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.''

For accessible component parts of children's products, children's toys, and child care articles subject to sections 101, 106, and 108 of the CPSIA, compliance to the specified content limits is always required, irrespective of any testing exemptions. Thus, a manufacturer or importer who certifies a children's product, toy or child care article, must assure the product's compliance. The presence of lead, the ASTM F963 elements, or the specified phthalates does not have to be intended to require compliance. The presence of these chemicals, whether for any functional purpose, as a trace material, or as a contaminant, must be in concentrations less than the specified content or solubility limits for the material to be compliant. Additionally, the manufacturer or importer must have a high degree of assurance that the product has not been adulterated or contaminated to an extent that would render it noncompliant. For example, if a manufacturer or importer is relying on a determination that an EWP does not contain lead, ASTM F963 elements, or specified phthalates in concentrations greater than the specified limits in a children's product, children's toy, or child care article, the manufacturer must ensure that the EWP is one on which a determination has been made.

Furthermore, under the proposed rule, any determinations that are made on EWPs are limited to unfinished and untreated EWPs made from virgin wood or pre-consumer wood waste. Children's products, children's toys, and child care articles made from these EWPs may have other materials that are applied to or added on to the EWP after it is manufactured, such as treatments and finishes. Such component parts fall outside of the scope of the proposed determinations and would be subject to third party testing requirements, unless the component part has a separate determination which does not require third-party testing for certification purposes. Finally, even if a determination is in effect and third party testing is not required, a certifier must still issue a certificate.

The three engineered woods for which the determinations are proposed are: Particleboard, hardwood plywood, and medium-density fiberboard. Based on staff's review of the TERA reports as discussed in section C. of the preamble, the Commission is proposing determinations that there is a high degree of assurance that these three EWPs in an untreated and unfinished state made from virgin or pre-consumer wood waste will not contain lead, the ASTM F963 elements, or the specified phthalates in excess of allowable levels. Specifically, the Commission is proposing determinations that would find that particleboard and MDF that is untreated and unfinished and made with virgin wood or pre-consumer wood waste, would not contain lead, the ASTM F963 elements, or the specified phthalates (DEHP, DBP, BBP, DINP, DIDP, or DnOP) in concentrations greater than their specified limits.

In addition, with the exception of hardwood plywood that contains PVAc adhesive formulations, untreated and unfinished hardwood plywood made with virgin wood or pre-consumer wood waste would be determined not to contain lead, the ASTM F963 elements, and the specified phthalates in concentrations greater than their specified limits.

These determinations would mean that, for the specified EWPs, third party testing is not required to assure compliance with sections 101, 106, and 108 of the CPSIA. The Commission proposes to make these determinations to reduce the third party testing burden on children's product certifiers while continuing to assure compliance.

2. Statutory Authority

Section 3 of the CPSIA grants the Commission general rulemaking authority to issue regulations, as necessary, to implement the CPSIA. Public Law 110–314, sec. 3, Aug. 14, 2008. Section 14 of the CPSA, which was amended by the CPSIA, requires third party testing for children's products subject to a children's product safety rule. 15 U.S.C. 2063(a)(2). Section 14(d)(3)(B) of the CPSA, as amended by Public Law 112–28, gives the Commission the authority to ''prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.'' *Id.* 2063(d)(3)(B). These statutory provisions authorize the Commission to propose a rule determining that certain EWPs would not be determined to contain lead, the ASTM F963 elements, and the specified phthalates (DEHP, DBP, BBP, DINP, DIDP, or DnOP) [21] in concentrations greater than their specified limits, and thus, are not required to be third party tested to assure compliance with sections 101, 106, and 108 of the CPSIA.

The proposed determinations would relieve the three specified EWPs from the third party testing requirement of section 14 of the CPSA for purposes of supporting the required certification. However, the proposed determinations would not be applicable to any other EWPs beyond those listed in the proposed rule. Moreover, the proposed determinations are not applicable to EWPs that are not made of virgin wood or pre-consumer wood waste, or to

[21] *See supra* note 13.

EWPs that have post-manufacture treatments or finishes. The proposed determinations also are not applicable to hardwood plywood that contain PVAc adhesive formulations. The proposed determinations would only relieve the manufacturers' obligation to have the specified EWPs tested by a CPSC accepted third party conformity assessment body. Children's products, children's toys, and child care articles must still comply with the substantive content limits in section 101, 106, and 108 of the CPSIA regardless of any relief on third party testing requirements.

3. Description of the Proposed Rule

This proposed rule would create a new Part 1252 for ''Children's Products, Children's toys, and Child Care Articles: Determinations Regarding Lead, ASTM F963 Elements, and Phthalates for Engineered Wood Products.'' The proposed rule would determine that the specified three EWPs do not contain lead in concentrations exceeding 100 ppm, any of the ASTM F963 elements in excess of specified concentrations, and any of the statutorily prohibited phthalates (DEHP, DBP, BBP, DINP, DIDP, DnOP) in concentrations greater than 0.1 percent. As discussed in section A.4. of the preamble, the agency is currently involved in rulemaking to determine whether to continue the interim prohibitions in section 108 and whether to prohibit any other phthalates in children's toys or child care articles. TERA's examination covered all phthalates that are subject to the current permanent and interim prohibitions, as well as the additional phthalates the Commission proposed restricting in the Phthalates NPR. If the Commission issues a final rule in the phthalates rulemaking before finalizing this determinations rulemaking, the final determinations rule for EPWs would cover the same phthalates restricted by the final phthalates rule.

Section 1252.1(a) of the proposed rule explains the statutorily-created requirements that limit lead in children's products under the CPSIA and the third party testing requirements for children's products.

Section 1252.1(b) of the proposed rule explains the statutorily-created requirements for limiting the ASTM F963 elements in children's toys under the CPSIA and the third party testing requirements for children's toys.

Section 1252.1(c) of the proposed rule explains the statutorily-created requirements limiting phthalates for children's toys and child care articles under the CPSIA and the third party testing requirements for children's toys and child care articles.

Section 1252.2 of the proposed rule would provide definitions that apply to part 1252.

Section 1252.3(a) of the proposed rule would establish the Commission's determinations that specified EWPs do not exceed the lead content limits with a high degree of assurance as that term is defined in 16 CFR part 1107.

Section 1252.3(b) of the proposed rule would establish the Commission's determinations that specified EWPs do not exceed the solubility limits for ASTM F963 elements with a high degree of assurance as that term is defined in 16 CFR part 1107.

Section 1252.3(c) of the proposed rule would establish the Commission's determinations that specified EWPs do not exceed the phthalates content limits, with the exception of hardwood plywood containing PVAc, with a high degree of assurance as that term is defined in 16 CFR part 1107.

Section 1252.3(d) of the proposed rule states that accessible component parts of children's products, children's toys, and child care articles made with the specified EWPs, are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

Section 1252.3(e) of the proposed rule states that accessible component parts of children's products, children's toys, and child care articles that are not specifically listed in the determinations in proposed § 1252.3(a) through (c) are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

4. Comments on the Proposed Rule

The Commission seeks comments on all aspects of the proposed rule. In particular, comments of the following topics are welcome.

- Are there any data or examples that indicate that the EWPs identified in the proposed rule can and do contain lead, the ASTM F963 elements, or prohibited phthalates at levels that are not compliant? Please provide data supporting your assertion.
- The TERA Task 14 Report identified the use of some of the ASTM F963 elements as catalysts in adhesive formulations used to manufacture EWPs. Please provide any information that supports or refutes the claim that these elements will not be present in concentrations greater than their specified limits in EWPs.
- CPSC staff has heard from a manufacturer of PVAc adhesive formulations used in the manufacture of hardwood plywood that, although phthalates are no longer used in domestic production, they were once used. What phthalates were used in PVAc in the past? Could any of the specified phthalates be used? Why or why not? Are any of the specified phthalates used in domestic or international manufacturing of EWPs? Why or why not?
- How can one determine if a hardwood plywood sheet contains a PVAc adhesive system? How can one determine whether a PVAc adhesive system used in the manufacture of hardwood plywood contains a specified phthalate in concentrations greater than the specified limits? Can this type of information be found on labels, SDSs, company Web sites, or in some other way?
- Other than PVAc, are there additional adhesive formulations used in the manufacture of EWPs that could contain the specified phthalates in concentrations greater than those specified? If yes, what phthalates are used and at what concentration?
- Are there any post-consumer recycled EWPs that consistently comply with the limits for lead, ASTM F963 elements, or prohibited phthalates?
- Please describe the methods used to determine whether post-consumer recycled material is used in the manufacture of EWPs. How can this type of information be found (on labels, SDSs, company Web sites, or in some other way)?
- In addition to particleboard, hardwood plywood, and medium-density fiberboard, are there other EWPs widely used in children's products, children's toys, and child care articles that have not been identified in the proposed rule that do not, and will not, contain lead, the ASTM F963 elements, or prohibited phthalates in concentrations greater than the mandatory limits? Please provide supporting data.

E. Effective Date

The Administrative Procedure Act (APA) generally requires that a substantive rule must be published not less than 30 days before its effective date. 5 U.S.C. 553(d)(1). Because the proposed rule would provide relief from existing testing requirements under the CPSIA, the Commission proposes a 30 day effective date for the final rule.

F. Regulatory Flexibility Act

1. Introduction

The Regulatory Flexibility Act (RFA) requires that agencies review a proposed rule for the rule's potential economic impact on small entities, including small businesses. Section 603 of the RFA generally requires that agencies

prepare an initial regulatory flexibility analysis (IRFA) and make the analysis available to the public for comment when the agency is required to publish a notice of proposed rulemaking, unless the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The IRFA must describe the impact of the proposed rule on small entities and identify any alternatives which accomplish the statutory objectives and may reduce the significant economic impact of the proposed rule on small entities. We provide a summary of the IRFA.

2. Small Entities to Which the Proposed Rule Would Apply

The proposed rule would apply to small entities that manufacture or import children's products, children's toys, and child care articles that contain particleboard, hardwood plywood, or medium-density fiberboard. The number of domestic manufacturers classified in the North American Industrial Classification System (NAICS) categories that could manufacture children's products, children's toys, or child care articles that may contain accessible particleboard, hardwood plywood, or medium-density fiberboard component parts and would be responsible for the certification of these products may include 7,059 firms that can be categorized as small.[22] Of these, 3,705 have fewer than 5 employees. However, it is doubtful that all of the firms in some of these categories produce children's products. Moreover, of those firms that do produce children's products, we do not know how many of the firms manufacture products with accessible particleboard, hardwood plywood, or medium-density fiberboard component parts.

The number of domestic wholesalers by NAICS code that could distribute children's products, children's toys, or child care articles that may contain accessible particleboard, hardwood plywood, or medium-density fiberboard component parts may include 26,113 firms that can be categorized as small. Of these, 15,947 have less than 5 employees. Wholesalers who obtain their products strictly from domestic manufacturers or from other wholesalers would not be impacted by the rule because the manufacturer or importer would be responsible for certifying the products. Although importers are responsible for the certification of the children's products that they import, they may rely upon third party testing performed by their foreign suppliers for purposes of certification. The number of small wholesalers that import children's products, children's toys, or child care articles as opposed to obtaining their product from domestic sources is not known. Also unknown is the number of small importers that must obtain or pay for the third party testing of their products.

The number of domestic retailers by NAICS code that could sell children's products, children's toys, or child care articles that may contain accessible particleboard, hardwood plywood, or medium-density fiberboard component parts may include 49,358 firms that can be categorized as small. Of these, 27,506 have less than 5 employees. Although there are almost 50,000 retailers in the NAICS categories, the only retailers that would be directly impacted by the proposed rule are those that import children's products themselves. Retailers that obtain all of their products from domestic manufacturers or wholesalers will not be directly impacted by the rule because the manufacturers or wholesalers would be responsible for certifying the products.

Although comprehensive estimates of the number of children's products, children's toys, and child care articles that contain component parts made from the specified engineered woods are not available, there is evidence that these engineered woods are used in children's furniture, sporting equipment, children's toys, and some musical instruments. Based on the number of domestic toy manufacturers that are classified as small businesses by the U.S. Bureau of the Census and evidence that the specified engineered woods are used in children's products, children's toys, and child care articles, the Commission believes a substantial number of small entities would be impacted by this regulation.

3. Reporting, Recordkeeping, and Other Compliance Requirements and Impact on Small Businesses

The proposed rule would determine that there is a high degree of assurance that the certain EWPs be determined not to contain lead, the ASTM F963 elements, and the specified phthalates (DEHP, DBP, BBP, DINP, DIDP, or DnOP) in concentrations greater than their specified limits. Under this proposed determination, manufacturers, importers, and private labelers of children's products, children's toys, and child care articles that have accessible component parts that consist of these engineered woods would not require third party testing for certification that these components comply with the lead, ASTM F963 elements, or phthalate requirements.

The proposed rule would not impose any reporting, recordkeeping, or other compliance requirements on small entities. In fact, because the proposed rule would eliminate a testing requirement, there would be a small reduction in some of the recordkeeping burden under 16 CFR parts 1107 and 1109 because manufacturers would no longer have to maintain records of third party tests for the component parts manufactured from these engineered woods for lead, the ASTM F963 elements, or the specified phthalates.

The impact of the determinations on small businesses would be to reduce the burden of third party testing for the content of lead, the ASTM F963 elements, and the specified phthalates and would be expected to be entirely beneficial. The cost of lead testing ranges from $50 to more than $100 per component through Inductively Coupled Plasma testing (ICP). If one uses X-ray fluorescence spectrometry (XRF), which is an acceptable method for certification of third-party testing for lead content, the costs can be greatly reduced to approximately $5 per component part. If a component part made with one of the specified engineered woods is painted, the component part would be exempt from the third party testing requirement, but the paint would still require lead testing.

Based on published invoices and price lists, the cost of a third party test for the ASTM F963 elements ranges from around $60 in China, up to around $190 in the United States using ICP. This cost can be greatly reduced with the use of high definition X-ray fluorescence spectrometry (HDXRF), which is an acceptable method for certification of third-party testing for the presence of the ASTM F963 elements. The cost can be reduced to about $40 per component. It should be noted that lead is one of the ASTM F963 elements, so this testing would also cover the cost of lead testing for component parts.

The cost of phthalate testing is relatively high: Between about $125 and $350 per component part, depending upon where the testing is conducted and any discounts that are applicable. Because one product might have multiple component parts that require testing, the cost of testing a single product for phthalates could exceed $1,000 in some cases. Moreover, more than one sample might have to be tested to provide a high degree of assurance of

[22] The numbers of small firms for each NAICS code are from the Census Bureau and generally based on the SBA criteria for small firms.

compliance with the requirements for testing. To the extent that small businesses have lower production or sales volumes than larger businesses, these determinations would be expected to have a disproportionately beneficial impact on small businesses. This beneficial impact is due to spreading the costs of the testing over fewer units; and the benefit of the Commission making the determinations would be greater on a per unit basis for small businesses. Additionally, some testing laboratories may offer their larger customers discounts that might not be available to small businesses that need fewer third party tests. Making the determinations for these engineered woods could potentially significantly benefit a substantial number of firms.

On the other hand, the benefit of making the determinations could be less than might be expected. For example, some firms might have been able to substantially reduce their third party testing costs by using component part testing as allowed under 16 CFR 1109, so the marginal benefit that might be derived from making the determinations might be low. Also, some firms have reduced their testing costs by using XRF or HDXRF technology, which is less expensive than ICP, and would reduce the marginal benefit of these determinations. The Commission seeks public comments on the potential impact of the proposed rule on small entities. Comments are especially welcome on the following topics:

- The extent to which particleboard, hardwood plywood, and medium-density fiberboard are used in children's products, children's toys, and child care articles, especially those manufactured or imported by small firms;
- The potential reduction in third party testing costs that might be provided by the Commission making the determinations, including the extent to which component part testing is already being used and the current cost of testing components made from these engineered woods for compliance with the lead, ASTM F963 elements, and phthalate requirements;
- Any situations or conditions in the proposed rule that would make it difficult to make use of the determinations to reduce third party testing costs; and
- Although the Commission expects that the impact of the proposed rule will be entirely beneficial, any potential negative impacts of the proposed rule.

4. Alternatives Considered To Reduce the Burden on Small Entities

Under section 603(c) of the RFA, an initial regulatory flexibility analysis should ''contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of the applicable statutes and which minimize any significant impact of the proposed rule on small entities.'' Because the proposed rule is intended to reduce the cost of third party testing on small businesses and will not impose any additional burden, the Commission did not consider alternatives to the proposed rule that would reduce the burden of this rule on small businesses.

G. Environmental Considerations

The Commission's regulations provide a categorical exclusion for Commission rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required. The Commission's regulations state that safety standards for products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this rule alters that expectation.

List of Subjects in 16 CFR Part 1252

Business and industry, Consumer protection, Imports, Infants and children, Product testing and certification, Toys.

For the reasons stated in the preamble, the Commission proposes to amend title 16 of the CFR to add part 1252 to read as follows:

PART 1252—CHILDREN'S PRODUCTS, CHILDREN'S TOYS, AND CHILD CARE ARTICLES: DETERMINATIONS REGARDING LEAD, ASTM F963 ELEMENTS, AND PHTHALATES FOR ENGINEERED WOOD PRODUCTS

Sec.

1252.1 Children's products, children's toys, and child care articles containing lead, ASTM F963 elements, and phthalates in engineered wood products and testing requirements.
1252.2 Definitions.
1252.3 Determinations for engineered wood products.

Authority: Sec. 3, Pub. L. 110–314, 122 Stat. 3016; 15 U.S.C. 2063(d)(3)(B).

§ 1252.1 Children's products, children's toys, and child care articles containing lead, ASTM F963 elements, and phthalates in engineered wood products and testing requirements.

(a) Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) provides that any children's product, material, or component part or a children's product must comply with a lead content limit that does not exceed 100 parts per million. Materials used in children's products subject to section 101 of the CPSIA must comply with the third party testing requirements of section 14(a)(2) of the Consumer Product Safety Act (CPSA), unless listed in 16 CFR 1500.91.

(b) Section 106 of the CPSIA made provisions of ASTM F963, Consumer Product Safety Specifications for Toy Safety, a mandatory consumer product safety standard. Among the mandated provisions is section 4.3.5 of ASTM F963 which requires that surface coating materials and accessible substrates of children's toys that can be sucked, mouthed, or ingested, must comply with solubility limits that the toy standard establishes for eight elements. Materials used in children's toys subject to section 4.3.5 of the toy standard must comply with the third party testing requirements of section 14(a)(2) of the CPSA, unless listed in 16 CFR 1251.2.

(c) Section 108(a) of the CPSIA permanently prohibits any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP). Section 108(b)(1) of the CPSIA prohibits on an interim basis any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP). Materials used in children's toys and child care articles subject to section 108(a) and (b)(1) of the CPSIA must comply with the third party testing requirements of section 14(a)(2) of the CPSA, unless listed in 16 CFR part 1308.

§ 1252.2 Definitions.

In addition to the definitions given in sections 101, 106, and 108 of the CPSIA, the following definitions apply for this part 1252.

(a) *Post-consumer wood waste* describes wood waste that is comprised of materials that are recovered from their original use and subsequently used in a new product. Examples of this type of waste include recycled demolition wood, packaging materials such as pallets and crates, used wood from landscape care (*i.e.,* from urban and highway trees, hedges, and gardens), discarded furniture, and waste wood from industrial, construction, and commercial activities.

(b) *Pre-consumer wood waste* describes wood materials that have been recycled from an industrial process

before being made available for consumer use. Examples of this type of waste include trimmings from engineered wood product (EWP) panel manufacturing, sawdust from cutting logs, or remaining wood pieces from sawing a log into framing lumber.

(c) *Unfinished* means an EWP that does not have any surface treatments applied at manufacture, such as factory-applied coatings. Examples of such treatments may include paint or similar surface coating materials, wood glue, or metal fasteners, such as nails or screws.

(d) *Untreated* means an EWP that does not have any additional finishes applied at manufacture. Examples of such finishes may include flame retardants or rot resistant finishes.

(e) *Virgin wood* describes wood logs, fibers, chips, or layers that have not been recycled from a previous use.

§ 1252.3 Determinations for engineered wood products.

(a) The following engineered wood products do not exceed the lead content limits with a high degree of assurance as that term is defined in 16 CFR part 1107:

(i) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(ii) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste; and

(iii) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(b) The following engineered wood products do not exceed the ASTM F963 elements solubility limits set forth in 16 CFR part 1250 with a high degree of assurance as that term is defined in 16 CFR part 1107:

(i) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(ii) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste; and

(iii) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(c) The following engineered wood products do not exceed the phthalates content limits with a high degree of assurance as that term is defined in 16 CFR part 1107:

(i) Particleboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste;

(ii) Hardwood plywood that is untreated and unfinished made from virgin wood or pre-consumer wood waste and does not contain PVAc adhesive formulations; and

(iii) Medium-density fiberboard that is untreated and unfinished made from virgin wood or pre-consumer wood waste.

(d) Accessible component parts of children's products, children's toys, and child care articles made with EWPs, listed in paragraphs (a) through (c) of this section are not required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

(e) Accessible component parts of children's products, children's toys, and child care articles made with engineered wood products not listed in paragraphs (a)–(c) of this section are required to be third party tested pursuant to section 14(a)(2) of the CPSA and 16 CFR part 1107.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2017–21980 Filed 10–12–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2011–N–0921]

RIN 0910–ZA50

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Extension of Compliance Dates for Subpart E; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is correcting a proposed rule that published in the **Federal Register** of September 13, 2017. That proposed rule proposes to extend, for covered produce other than sprouts, the dates for compliance with the agricultural water provisions in the ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' regulation. We are placing a corrected copy of the proposed rule in the docket.

DATES: October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Samir Assar, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1636.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 13, 2017 (82 FR 42963), FDA published the proposed rule ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Extension of Compliance Dates for Subpart E'' with an omission.

In FR Doc. 2017–19434, appearing on page 42963 in the **Federal Register** of September 13, 2017, the following correction is made:

On page 42967, in the third column, the paragraph above the table is corrected to include the fourth sentence as follows: ''There would be a reduction in benefits associated with extending the compliance dates as described previously. Consumers eating non-sprout covered produce would not enjoy the potential health benefits (*i.e.,* reduced risk of illness) provided by the provisions of subpart E until 2 to 4 years (depending on the specific provision) later than originally established in the produce safety regulation. Thus, the annualized total benefits to consumers, discounted at 3 percent over 10 years, would decrease by $108 million from $1.033 billion to $925 million. Taking into consideration both the reduction in costs and the reduction in benefits, using a 3 (7) percent discount rate, the proposed rule would have negative annualized net benefits of $96 ($97) million. Estimated changes in benefits and costs as a result of this proposed extension are summarized in the following table.''

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22182 Filed 10–12–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–129631–17]

RIN 1545–BN91

Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act; Proposed Rulemaking

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In this issue of the **Federal Register**, the Department of Treasury and the IRS are issuing two sets of temporary regulations related to section 9815 of the Internal Revenue Code. The first set of temporary regulations, as published in TD 9827, amends final regulations published under the provisions of the Patient Protection and Affordable Care Act (the Affordable Care Act) and relates to expanded exemptions to protect religious beliefs for entities and individuals with objections based on religious beliefs whose health plans are subject to a mandate of contraceptive coverage through guidance issued pursuant to the Affordable Care Act. These proposed regulations refer to the second set of temporary regulations, as published in TD 9828, which amends the first set of temporary regulations, as published in TD 9827, to add an exemption to protect moral convictions for entities and individuals with objections based on those beliefs whose health plans are subject to the mandate of contraceptive coverage.

DATES: Written or electronic comments and requests for a public hearing must be received by December 5, 2017.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–129631–17), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR (REG–129631–17), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–129631–17).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karen Levin at 202–317–5500; concerning submissions of comments, Regina Johnson at 202–317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The temporary regulations published elsewhere in this issue of the **Federal Register** add §§ 54.9815–2713T and 54.9815–2713AT to the Miscellaneous Excise Tax Regulations, as published in TD 9827 in the Rules section of this issue of the **Federal Register**. The proposed and temporary regulations are being published as part of a joint rulemaking with the Department of Labor and the Department of Health and Human Services (the joint rulemaking). The temporary regulations provide guidance to certain entities and individuals whose health plans are subject to a mandate of contraceptive coverage and does not alter the discretion of the Health Resources and Services Administration, a component of the U.S. Department of Health and Human Services, to maintain the guidelines requiring contraceptive coverage where no regulatorily recognized objection exists. The temporary regulations also leave in place the accommodation process as an optional process for certain exempt entities that wish to use it voluntarily and does not alter other Federal programs that provide free or subsidized contraception for women at risk of unintended pregnancy. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required.

For the applicability of the Regulatory Flexibility Act (5 U.S.C. Chapter 6), please see section VI.C. of the temporary regulations.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the regulations' impact on small businesses.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are specifically requested on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Karen Levin, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the U.S. Department of Labor and the U.S. Department of Health and Human Services.

List of Subjects in 26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 54.9815–2713T [Amended]

■ **Par 2.** Section 54.9815–2713T, as added elsewhere in this issue of the **Federal Register**, is amended in paragraph (a)(1)(iv) by removing the language ''147.131 and 147.132'' adding in its place ''147.131, 147.132, and 147.133''.

§ 54.9815–2713AT [Amended]

■ **Par. 3.** Section 54.9815–2713AT, as added elsewhere in this issue of the **Federal Register**, is amended:

■ a. In paragraph (a)(1) by removing the language ''(ii)'' and adding in its place ''(ii), or 45 CFR 147.133(a)(1)(i) or (ii)''.

■ b. In paragraph (a)(2) by adding the language ''or 147.133(a)'' after ''147.132(a)''.

■ c. In paragraph (b)(1)(ii) introductory text by removing the language ''147.132'' and adding in its place ''147.132(ii) or 147.133''.

■ d. In paragraph (b)(1)(ii)(B) by adding the language ''or 147.133'' after ''147.132''.

■ e. In paragraph (c)(1)(ii) introductory text by adding the language ''or 147.133'' after ''147.132''.

■ f. In paragraph (c)(1)(ii)(B) by adding the language ''or 147.133'' after ''147.132''.

■ g. In paragraph (c)(2) introductory text by adding the language ''or 147.133'' after ''147.132''.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2017–21854 Filed 10–6–17; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–115615–17]

RIN 1545–BN92

Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act; Proposed Rulemaking

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In this issue of the **Federal Register**, the Department of Treasury and the IRS are issuing two sets of temporary regulations related to section 9815 of the Internal Revenue Code. The first set of temporary regulations, as published in TD 9827, amends final regulations published under the provisions of the Patient Protection and Affordable Care Act (the Affordable Care Act) and relates to expanded exemptions to protect religious beliefs for entities and individuals with objections based on religious beliefs whose health plans are subject to a mandate of contraceptive coverage through guidance issued pursuant to the Affordable Care Act. These proposed regulations refer to that first set of temporary regulations. The second set of temporary regulations, as published in TD 9828, amends the first set of temporary regulations, as published in TD 9827, to add an exemption to protect moral convictions for entities and individuals with objections based on those beliefs whose health plans are subject to the mandate of contraceptive coverage.

DATES: Written or electronic comments and requests for a public hearing must be received by December 5, 2017.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–115615–17), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR (REG–115615–17), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–115615–17).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karen Levin at 202–317–5500; concerning submissions of comments, Regina Johnson at 202–317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The temporary regulations published elsewhere in this issue of the **Federal Register** amend §§ 54.9815–2713 and 54.9815–2713A of the Miscellaneous Excise Tax Regulations. The temporary regulations provide guidance to certain entities and individuals whose health plans are subject to a mandate of contraceptive coverage and do not alter the discretion of the Health Resources and Services Administration, a component of the U.S. Department of Health and Human Services, to maintain the guidelines requiring contraceptive coverage where no regulatorily recognized objection exists. The temporary regulations also leave in place the accommodation process as an optional process for certain exempt entities that wish to use it voluntarily and do not alter other Federal programs that provide free or subsidized contraception for women at risk of unintended pregnancy. The proposed and temporary regulations are being published as part of a joint rulemaking with the Department of Labor and the Department of Health and Human Services (the joint rulemaking). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations further explains the temporary regulations and these proposed regulations.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required.

For the applicability of the Regulatory Flexibility Act (5 U.S.C. Chapter 6), please see section VI.C. of the temporary regulations.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the regulations' impact on small businesses.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are specifically requested on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Karen Levin, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the U.S. Department of Labor and the U.S. Department of Health and Human Services.

List of Subjects in 26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 54.9815–2713 is revised to read as follows:

§ 54.9815–2713 Coverage of preventive health services.

[The text of proposed § 54.9815–2713 is the same as the text of § 54.9815–2713T(a) through (d) published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Section 54.9815–2713A is revised to read as follows:

§ 54.9815–2713A Accommodations in connection with coverage of preventive health services.

[The text of proposed § 54.9815–2713A is the same as the text of § 54.9815–2713AT(a) through (f)

published elsewhere in this issue of the **Federal Register**].

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2017–21856 Filed 10–6–17; 11:15 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: On October 3, 2017, the Postal Service (USPS) filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC). The proposed price adjustments are scheduled to become effective on January 21, 2018. This proposed rule contains the revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) that we would adopt to implement rule changes coincident with the price adjustments.

DATES: Submit comments on or before November 13, 2017.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *ProductClassification@usps.gov,* with a subject line of ''January 2018 Domestic Mailing Services Proposal.'' Faxed comments are not accepted. You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC, 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Jacqueline Erwin at (202) 268–2158, or Lizbeth Dobbins at (202) 268–3789.

SUPPLEMENTARY INFORMATION: Proposed prices will be available under Docket No. R2018–1 on the Postal Regulatory Commission's Web site at *www.prc.gov.* The Postal Service's proposed rule includes: Changes to prices, mail classification updates, modifications to mail preparation standards, and minor revisions to the DMM to condense language and/or eliminate redundancy.

Add Bound Printed Matter Flats Up to 24 Ounces to Comail DSCF or DDU Only

Currently, the USPS allows authorized mailers to combine USPS Marketing Mail flats and Periodicals flats in a single mailing. Each mailpiece must meet the standards for the mail class, and Periodicals publications must be authorized or pending original or additional entry at the office of mailing. Mailers must prepare pieces in bundles on pallets.

The USPS proposes allowing Bound Printed Matter (BPM) Flats up to 24 ounces to be included in the current comailing structure which includes USPS Marketing Mail flats and Periodicals flats up to 24 ounces entered at a Destination Sectional Center Facility, (DSCF) or a Destination Delivery Unit, (DDU). The maximum weight of comailed BPM and Periodicals flats is 24 ounces per piece within the same bundle. Pieces within the bundle must be in line-of-travel, LOT, sequence. These bundles must not contain more than half of the heavier pieces. Note that comail bundles which contain all three classes of mail assume the service standard of USPS Marketing Mail. If bundles are made only of Periodicals and Bound Printed Matter Flats, then the service standard adopted will be the lesser of the two. This proposal includes CoPal, which allows the mixing of class-specific, bundles on the same pallet, which can also include mixed class bundles (comail). If BPM bundles are included on the same pallet, then this CoPal pallet must be DSCF or DDU entry only.

Order of Pallet Preparation for Carrier Route (CR) Pallets in Non-FSS Zones

Currently, the pallet preparation requirements for Carrier Route pallets in Non-FSS zones allows merged 5-digit scheme pallets as the first required sortation, followed by 5-digit scheme carrier routes, 5-digit scheme, and merged 5-digit pallets.

The USPS is considering updating the order of pallet preparation, to increase the number of pure CR Pallets (as opposed to 5-Digit Merged Pallets) presented in non-FSS zones. This will be accomplished by moving 5-digit Scheme Carrier Route pallets ahead of Merged 5-digit Scheme pallets. This includes both USPS Marketing Mail and Periodicals. This change would increase the amount of mail eligible for a CR pallet discount, resulting in eligibility for lower prices on the mail.

Zone Charts Revision: Priority Mail to APO/FPO/DPO Processing at Chicago ISC

The Postal Service is proposing a change to all zone charts to reflect Priority Mail to APO/FPO/DPO destinations will only be processed at the Chicago ISC.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1. Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

10.0 Merging Bundles of Flats Using the City State Product

10.1 Periodicals

* * * * *

10.1.5 Pallet Preparation and Labeling

[Revise the second sentence in the introductory text of 10.1.5 to read as follows:]

* * * When sortation under this option is performed, mailers must prepare all 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit carrier routes, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using

L001 and/or the City State Product.
* * *

[Reverse the order of items a. and b.; and revise the text of reordered items a. and b. to read as follows:]

a. *5-digit scheme carrier routes,* required; allowed with no minimum. May contain only carrier route bundles for carrier routes in an L001 scheme for which all of the 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator in the City State Product. Labeling:

1. Line 1: Use L001, Column B.
2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS''; followed by ''CR–RTS SCHEME.''

b. *Merged 5-digit scheme,* required and permitted only when there is at least one 5-digit ZIP Code in the scheme that has an ''A'' or ''C'' indicator in the City State Product. May contain carrier route bundles for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as machinable barcoded price 5-digit bundles and machinable nonbarcoded price 5-digit bundles for those 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. Labeling:

1. Line 1: Use L001, Column B.
2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS''; followed by ''CR/5D SCHEME.''

[Reverse the order of items c and d; and revise the text of reordered item c to read as follows:]

c. *5-digit carrier routes,* required; allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).
2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

* * * * *

10.2 USPS Marketing Mail

* * * * *

10.2.5 Pallet Preparation and Labeling

[Revise the second sentence in the introductory text of 10.2.5 to read as follows:]

* * * After completing required carrier route pallets, mailers must prepare all merged 5-digit scheme, 5-digit scheme carrier routes, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and/or the City State Product. * * *

[Reverse the order of items a. and b.; and revise the text in reordered items a. and b. to read as follows:]

a. *5-digit scheme carrier routes,* required; allowed with no minimum. May contain only carrier route bundles for carrier routes in an L001 scheme for which all of the 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator in the City State Product. Labeling:

1. Line 1: Use L001, Column B.
2. Line 2: ''MKT FLTS CR–RTS SCHEME.''

b. *Merged 5-digit scheme,* required and permitted only when there is at least one 5-digit ZIP Code in the scheme that has an ''A'' or ''C'' indicator in the City State Product. May contain carrier route bundles for any 5-digit ZIP Code(s) in a single scheme listed in L001 as well as automation price 5-digit bundles and Presorted price 5-digit bundles for those 5-digit ZIP Codes in the scheme that have an ''A'' or ''C'' indicator in the City State Product. Labeling:

1. Line 1: Use L001, Column B.
2. Line 2: ''MKT FLTS CR/5D SCHEME.''

[Reverse the order of items c and d; and revise the text of reordered item c to read as follows:]

c. *5-digit carrier routes,* required; allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code for those 5-digit ZIP Codes that are not part of a scheme and that have a ''B'' or ''D'' indicator in the City State Product. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).
2. Line 2: ''MKT FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

* * * * *

12.0 Merging Bundles of Flats on Pallets Using a 5% Threshold

12.1 Periodicals

* * * * *

12.1.5 Pallet Preparation and Labeling

[Revise the second sentence in the introductory text of 12.1.5 to read as follows:]

* * * Mailers must prepare all 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit scheme, 5-digit carrier routes and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and the 5% threshold, as applicable. * * *

Prepare and label pallets as follows:

[Reverse the order of items a. and b.; and revise the text of reordered items a. and b. to read as follows:]

a. *5-digit scheme carrier routes,* required; allowed with no minimum. May contain only carrier route bundles for all carrier routes in an L001 scheme. Labeling:

1. Line 1: Kuse L001, Column B.
2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''CR–RTS SCHEME.''

b. *Merged 5-digit scheme,* required; * * * For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 12.1.5e (merged 5-digit pallet). Labeling:

1. Line 1: Use L001, Column B.

Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''CR/5D SCHEME.''

* * * * *

[Reverse the order of items d and e; and revise the text of reordered item d to read as follows:]

d. *5-digit carrier routes,* required; allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code that is not part of a scheme. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).
2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; followed by ''CARRIER ROUTES'' or ''CR–RTS.''

* * * * *

[Add new heading 12.2, USPS Marketing Mail, renumber 12.1.6 through 12.1.8 as 12.2.1 through 12.2.3]

12.2 USPS Marketing Mail

* * * * *

12.2.3 Pallet Preparation and Labeling

[Revise the second sentence in the introductory text of renumbered 12.2.3 to read as follows:]

* * * Mailers must prepare all 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit carrier routes and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001 and the 5% threshold. * * *

[Reverse the order of items a. and b.; and revise the text in reordered items a. and b. to read as follows:]

a. *5-digit scheme carrier routes,* required, allowed with no minimum. May contain only carrier route bundles for all carrier routes in an L001 scheme. Labeling:

1. Line 1: Use L001, Column B.
2. Line 2: ''MKT FLTS CR–RTS SCHEME.''

b. *Merged 5-digit scheme,* required, permitted only when 5-digit bundles for at least one 5-digit ZIP Code in the scheme may be merged with carrier

route bundles under the 5% threshold standard in 12.2.2. * * * For 5-digit ZIP Codes not included in a scheme, begin preparing pallets under 12.2.3d (merged 5-digit pallet). Labeling:

1. Line 1: Use L001, Column B.

Line 2: ''MKT FLTS CR/5D SCHEME.''

* * * * *

[Reverse the order of items c and d; and revise the text of reordered item c to read as follows:]

c. *5-digit carrier routes,* required, allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code that is not part of a scheme. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).

2. Line 2: ''MKT FLTS''; followed by ''CARRIER ROUTES'' or ''CR–RTS.''

* * * * *

13.0 Merging Bundles of Flats on Pallets Using the City State Product and a 5% Threshold

13.1 Periodicals

* * * * *

13.1.5 Pallet Preparation and Labeling

[Revise the second sentence in the introductory text of 13.1.5 to read as follows:]

* * * Mailers must prepare all 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit scheme, 5-digit carrier routes, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination (8.0) using L001, the City State Product, and the 5% threshold (13.1.4), as applicable. * * * Prepare and label pallets as follows:

* * * * *

[Reverse the order of items a. and b.; and revise the text of reordered item a. to read as follows:]

a. *5-digit scheme carrier routes,* required, allowed with no minimum. May contain only carrier route bundles for all carrier routes in an L001 scheme for which all 5-digit ZIP Codes in the scheme have a ''B'' or ''D'' indicator.

Labeling:

1. Line 1: Use L001, Column B.

2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CR–RTS SCHEME.''

* * * * *

[Reverse the order of items d and e; revise the text of reordered item d to read as follows:]

d. *5-digit carrier routes,* required; allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code that is not part of a scheme. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).

2. Line 2: ''PER'' or ''NEWS'' as applicable; followed by ''FLTS'' or ''IRREG'' as applicable; and followed by ''CARRIER ROUTES'' or ''CR–RTS.''

* * * * *

13.2 USPS Marketing Mail

* * * * *

13.2.4 Pallet Preparation and Labeling

[Revise the second sentence of the introductory text of 13.2.4 to read as follows:]

* * * Mailers must prepare all 5-digit scheme carrier routes, merged 5-digit scheme, and merged 5-digit pallets that are possible in the mailing based on the volume of mail to the destination using L001, the City State Product, and the 5% threshold. Mailers must label pallets according to the Line 1 and Line 2 information listed below and under 8.6.

[Reverse the order of items a. and b.; revise the text of reordered item a. to read as follows:]

a. *5-digit scheme carrier routes,* required, allowed with no minimum. May contain only carrier route bundles for all carrier routes in an L001 scheme. Labeling:

1. Line 1: Use L001, Column B.

2. Line 2: ''MKT FLTS CR–RTS SCHEME.''

* * * * *

[Reverse the order of items c and d; revise the text of reordered item c to read as follows:]

c. *5-digit carrier routes,* required, allowed with no minimum. May contain only carrier route price bundles for the same 5-digit ZIP Code that is not part of a scheme. Labeling:

1. Line 1: Use city, state, and 5-digit ZIP Code destination (see 8.6.4 for military mail).

2. Line 2: ''MKT FLTS,'' followed by ''CARRIER ROUTES or ''CR–RTS.''

* * * * *

[Revise the heading of 15.0 to read as follows:]

15.0 Combining USPS Marketing Mail Flats, Bound Printed Matter Flats, and Periodicals Flats

15.1 Basic Standards

[Revise the introductory text of 15.1 to read as follows:]

Authorized mailers may combine USPS Marketing Mail flats, Bound Printed Matter flats and Periodicals flats in a single mailing as follows:

[Revise the text in item a, to read as follows:]

a. Each mailpiece must meet the standards in 240 for USPS Marketing Mail, 260 for Bound Printed Matter, and 207 for Periodicals. Periodicals publications must be authorized or pending original or additional entry at the office of mailing.

* * * * *

[Add new item h, to read as follows:]

h. Each comailing containing Bound Printed Matter Flats must:

1. Be entered at a Destination Sectional Center Facility, (DSCF) or a Destination Delivery Unit, (DDU)

2. Not exceed the maximum weight of 24 ounces per piece within the same bundle, when comailed with Periodicals pieces. The maximum number of heavier pieces would be no more than half of each bundle.

15.1.1 Service Objectives

[Revise the text in 15.1.1 to read as follows:]

The Postal Service processes combined mailings of USPS Marketing Mail flats, Bound Printed Matter Flats and Periodicals flats to the service standards of USPS Marketing Mail.

15.1.2 Postage Payment

[Revise the first sentence of 15.1.2 to read as follows:]

Postage for all USPS Marketing Mail and Bound Printed Matter pieces must be paid with permit imprint using a special postage payment system in 2.0 through 4.0 at the Post Office location serving the mailer's plant. * * *

15.1.3 Documentation

* * * In addition, mailers must provide:

* * * * *

[Revise the text of item f to read as follows:]

f. When requested, a copy of a notification document signed and dated by the Periodicals publisher, acknowledging their participation in a combined mailing of USPS Marketing Mail, Bound Printed Matter Mail and Periodicals and the potential for their mailpieces to receive deferred USPS handling.

* * * * *

15.1.4 Authorization

[Revise the first sentence in 15.1.4 to read as follows:]

A mailer must submit a written request to the manager, Business Mailer Support (see 608.8.1 for address) to combine mailings of USPS Marketing Mail flats, Bound Printed Matter flats, and Periodicals flats. * * *

15.1.5 Price Eligibility

[Revise the introductory text in 15.1.5 to read as follows:]

Apply prices based on the standards in 240 for USPS Marketing Mail and 260 for Bound Printed Matter flats. * * *

* * * * *

[Revise the heading of 15.2 to read as follows:]

15.2 Combining USPS Marketing Mail Flats, Bound Printed Matter Flats, and Periodicals Flats in the Same Bundle

* * * * *

15.2.2 Mailpiece and Bundle Identification

[Revise the text in 15.2.2 to read as follows:]

Each USPS Marketing Mail, Bound Printed Matter and Periodicals mailpiece prepared under a combined mailing of USPS Marketing Mail flats, Bound Printed Matter and Periodicals flats must be identified as being part of a mixed class mailing through the use of an optional endorsement line (OEL) in accordance with the standards in 203.7.1.8. ''Post-print consolidators may use the following alternative:

a. Mailings of USPS Marketing and Bound Printed Matter, using Permit Imprint, may include a ''Co-Class'' marking.

* * * * *

[Revise the heading of 15.3 to read as follows:]

15.3 Combining Bundles of USPS Marketing Mail Flats, Bound Printed Matter Flats, and Periodicals Flats on the Same Pallet

* * * * *

15.3.2 Mailpiece and Bundle Identification

[Revise the introductory text in item a. in 15.3.2 to read as follows:]

Each USPS Marketing Mail, Bound Printer Matter, and Periodicals mailpiece prepared under a combined mailing of USPS Marketing Mail flats, Bound Printed Matter flats, and Periodicals flats must be identified as being part of a mixed class mailing through the use of an optional endorsement line (OEL) in accordance with standards in 203.7.1.8. ''Post-print consolidators may use the following alternative:

a. Mailings of USPS Marketing and Bound Printed Matter, using Permit Imprint, may include a ''Co-Class'' marking.

* * * * *

15.4 Pallet Preparation

15.4.1 Pallet Preparation, Sequence and Labeling

[Revise the introductory text in 15.4.1 to read as follows:]

When combining USPS Marketing Mail, Bound Printed Matter and Periodicals flats within the same bundle or combining bundles of USPS Marketing Mail flats, Bound Printed Matter flats and bundles of Periodicals flats on pallets, bundles must be placed on pallets. Preparation, sequence and labeling:

a. *5-digit scheme carrier routes, required.* * * * Labeling:

[Revise item a. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

b. *Merged 5-digit scheme, optional.* * * * Labeling:

[Revise item b. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS CR/5D,'' as applicable * * *

c. *Merged 5-digit, optional.* * * * Labeling:

[Revise item c. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

d. *5-digit carrier routes, required.* * * * Labeling:

[Revise item d. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

e. *5-digit, required.* * * * Labeling:

[Revise item e. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

f. *3-digit, optional,* * * * Labeling:

[Revise item f. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

g. *SCF, required.* * * * Labeling:

[Revise item g. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS,'' as applicable; * * *

h. *ASF, required unless bundle reallocation used under* 15.1.10. * * * Labeling:

[Revise item h. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS NDC,'' as applicable; * * *

[Revise item i to read as follows:]

i. NDC, required. Pallet may contain carrier route, automation or presorted mail for the 3-digit ZIP Code groups in L601. * * * Labeling:

[Revise item i. 2 to read as follows:]

2. Line 2: ''MKT/BPM/PER FLTS NDC,'' as applicable;* * *

[Revise item j. to read as follows:]

j. *Mixed NDC, required, no minimum.* Pallet may contain carrier route, automation or presorted mail. * * * Labeling:

[Revise item j. 2 to read as follows:]

Line 2: ''MKT/BPM/PER FLTS,'' as applicable;

* * * * *

Notice 123 (Price List)

[Revise prices as applicable.]

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes, if our proposal is adopted.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–22212 Filed 10–12–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0500; FRL–9969–37–Region 4]

Air Plan Approval; Florida; Stationary Sources Emissions Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a portion of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection on February 1, 2017, for the purpose of revising Florida's requirements and procedures for emissions monitoring at stationary sources. Florida's February 1, 2017, SIP submittal includes amendments to three Florida Administrative Code (F.A.C.) rule sections as well as the removal of one F.A.C. rule section from the Florida SIP in order to eliminate redundant language and makes updates to the requirements for emissions monitoring at stationary sources. Additionally, this action includes a correction to remove an additional F.A.C. rule that was previously approved for removal from the SIP in a separate action but was never removed. This action is being taken pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 13, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0500 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Febres can be reached via telephone at (404) 562–8966 or via electronic mail *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2017–22116 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Appendix C to Chapter 301 and Parts 304–2, 304–3, and 304–6

[FTR Case 2016–301; Docket No. 2016–0008, Sequence 1]

RIN 3090–AJ69

Federal Travel Regulation (FTR); Clarification of Payment in Kind for Speakers at Meetings and Similar Functions; Withdrawal

AGENCY: Office of Government-wide Policy, U.S. General Services Administration (GSA).

ACTION: Proposed rule; withdrawal.

SUMMARY: The General Services Administration (GSA) is withdrawing FTR Case 2016–301; Clarification of Payment in Kind for Speakers at Meetings and Similar Functions. This proposed rule is being withdrawn so that GSA can develop a comprehensive revision to the Federal Travel Regulation.

DATES: The proposed rule published on August 15, 2016 (81 FR 53979) is withdrawn as of October 13, 2017.

ADDRESSES: Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, 202–501–4755.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jill Denning, Program Analyst, Office of Government-wide Policy, at 202–208–7642. Contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FTR case 2016–301.

SUPPLEMENTARY INFORMATION:

List of Subjects in 41 CFR Appendix C to Chapter 301 and Parts 304–2, 304–3, and 304–6

Government employees, Travel and transportation expenses.

Authority: 5 U.S.C. 5707, and 5 U.S.C. 5707; 31 U.S.C. 1353.

Dated: October 5, 2017.

Allison Fahrenkopf Brigati,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2017–22016 Filed 10–12–17; 8:45 am]

BILLING CODE 6820–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 17–228; FCC 17–123]

Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on proposals to provide relief to non-nationwide service providers by revising the Commission's wireless hearing aid compatibility reporting requirements.

DATES: Interested parties may file comments on or before November 13, 2017, and reply comments on or before November 27, 2017.

ADDRESSES: You may submit comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). *All filings related to this document shall refer to WT Docket No. 17–228.*

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

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 Street 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 9050 Junction Drive, Annapolis Junction, Annapolis, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be

addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection modifications proposed herein should be submitted to the Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact Michael Rowan, Wireless Telecommunications Bureau, (202) 418–1883, email *Michael.Rowan@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking, in WT Docket No. 17–228; FCC 17–123, adopted September 26, 2017, and released on September 27, 2017. This document is available for download at *http://fjallfoss.fcc.gov/edocs_public/*. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

I. Discussion

1. The Commission seeks comment on whether to exempt a service provider that is not a Tier I carrier (Non-Tier I Service Provider) from the annual FCC Form 655 reporting requirements or otherwise to modify these requirements, while maintaining the reporting requirements for Tier I carriers and all handset manufacturers.

2. The Commission seeks comment on whether the annual reporting requirements for Non-Tier I Service Providers are still necessary to achieve the Commission's objectives for adopting the reporting requirements and whether the burden of complying with these reporting requirements for Non-Tier I Service Providers outweighs the associated benefits. The Commission, in adopting these reporting requirements, stated that its reporting requirements serve several purposes: Providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. The Commission asks commenters to address the contribution of Non-Tier I Service Provider reports to these objectives and whether these reports are still necessary to achieve these objectives.

3. For example, the Commission seeks comment on the extent to which consumers rely on Non-Tier I Service Providers' annual reports for information about handset models. The Commission notes that the Commission's in-store testing and Web site posting requirements will continue to apply if the Commission adopts an exemption from the Form 655 reporting requirements. The Commission seeks comment on whether consumers will have sufficient information from service providers' ongoing compliance with these requirements. The Commission also seeks comment on whether the continued availability of Tier I carrier reports suggests that, in the aggregate, the informational benefit to consumers of Non-Tier I Service Provider reports will be minimal or otherwise supports exempting them from reporting requirements. Similarly, are consumers informed to a greater degree about the availability of handset models in the marketplace from the reports of device manufacturers?

4. The Commission also seeks comment on whether consumers can obtain information from other third-party resources and whether they may be better or more accessible sources of information to the public about handset offerings than the status reports filed with the Commission. For instance, the Global Accessibility Reporting Initiative (GARI) is a project run by the Mobile & Wireless Forum that is designed to help consumers learn more about the accessibility features of mobile devices and to help them identify devices with the features that may assist them with their particular needs. Are these information sources sufficient? If not, commenters should provide specific examples of the information these sources are missing.

5. With regard to monitoring the compliance of Non-Tier I Service Providers with the Commission's rules, the Commission seeks comment on whether the Commission should rely on its informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other requirements. Given that these annual reports in recent years have reflected near universal compliance with the requirements, is detailed reporting from every small and regional service provider still justified to address any isolated instances of non-compliance by such providers? Would eliminating or modifying the reporting requirements help these service providers save costs without an appreciable negative impact on the Commission's enforcement objectives? For example, the Commission notes that the Commission already relies on the informal complaint process rather than reporting to monitor compliance with other hearing aid compatibility obligations, such as in-store testing requirements. The Commission solicits comment on whether our enforcement objectives can be met by continuing to monitor the reports from device manufacturers and Tier I carriers.

6. The Commission seeks comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objective of gauging the overall state of access to wireless hearing aid-compatible handset models. Is it sufficient if the Commission only receives reports from manufacturers and Tier I carriers? For instance, the Commission has previously recognized that Non-Tier I Service Providers have difficulty obtaining the newest hearing aid-compatible handsets in comparison to the Tier I carriers, and the Commission seeks comment on whether the majority of newer compatible handset models on the market is reflected in Tier I carriers' status reports. Do Tier I carrier reports better reflect the feasibility of achieving hearing aid compatibility in handsets than the reports of Non-Tier I Service Providers? Additionally, the Commission in 2010 noted the ''growing distribution of wireless handsets through channels other than service providers.'' To what extent has this development reduced the importance of service provider reports in assessing access to compatible models? To monitor the state of hearing aid-compatible handset availability and technologies, the Commission also seeks comment on whether the Commission can rely on supplemental submissions for this type of information from stakeholders in open docket WT Docket No. 15–285.

7. The Commission also seeks comment on the burdens on Non-Tier I Service Providers of complying with the

Form 655 reporting requirements. Do special circumstances make annual status reporting particularly burdensome for small, rural, and regional carriers? If so, what are these circumstances and what is the burden or cost that results from them? [1] The Commission asks commenters to explain all such burdens in detail, including the costs in labor and wages of complying with the reporting requirements.

8. The Commission seeks comment on all potential cost savings and other potential benefits of our proposed reporting exemption. The FCC Form 655 Instructions state ''each response to this collection of information will take, on average, two and a half (2.5) hours.'' Is this estimate accurate? Are there resources or measures not accounted for in this estimate that are needed for small providers specifically to meet the reporting requirements? Please explain all such burdens in detail. Because all non-reporting requirements under section 20.19 will continue to apply to Non-Tier I Service Providers in the event the Commission adopts an exemption from the reporting requirements, including the obligation to offer a sufficient number of hearing aid-compatible handset models to meet the applicable benchmarks, parties should be careful to distinguish burdens that will continue to be incurred in complying with our section 20.19 rules, even in the absence of reporting requirements, such as burdens related to ascertaining the hearing aid compatibility ratings of various handset models offered to meet deployment benchmarks.

9. *Alternative Size Standard.* The Commission seeks comment on whether the scope of any exemption should be based on an alternative definition of carrier or size standard. Section 20.19 defines a Tier I carrier as ''a CMRS provider that offers such service nationwide.'' Accordingly, a Non-Tier I Service Provider exemption would cover all non-nationwide providers, including small and regional providers. Instead of exempting all non-nationwide service providers, the scope of the exemption could be based on the number of subscribers and apply if a service provider offers service to no more than, for example, 500,000 subscribers, the number of subscribers used to define small (*i.e.,* ''Tier III'') status in other proceedings. The Commission seeks comment on the feasibility of such an alternative approach, and whether it offers any advantages over using the Tier I standard that is already incorporated generally throughout the section 20.19 hearing aid compatibility rules. Would a subscriber-based reporting threshold rely on 2001 subscriber counts, which are used in the Tier III definition used elsewhere in the Commission's rules, or instead be based on a provider's subscriber count in a given reporting year? Are there any other alternatives that the Commission should consider, such as expanding the exemption to all service providers or limiting the exemption to providers meeting the small size standard that is incorporated in the *de minimis* exception rule, *i.e.,* providers with 1,500 or fewer employees?

10. *Alternative Reporting Period or Certification.* If the Commission determines that it would not serve the public interest to eliminate reporting requirements completely for Non-Tier I Service Providers, the Commission seeks comment on whether there are other ways to reduce the burdens associated with these requirements. Would it serve the public interest to require reporting less frequently? For instance, would requiring Non-Tier I Service Providers to file only once every three years instead of annually better balance the benefits of having such a reporting requirement against the burdens that it imposes? If so, what are the costs and benefits of revising the reporting requirements along these lines? Alternatively, rather than eliminating the reporting requirements or lengthening the interval between reports, would a better balance between the costs and benefits of the reporting requirements be achieved by requiring these service providers to submit a certification to the Commission, annually or otherwise, that they have met section 20.19 deployment benchmarks and other requirements, such as those on in-store testing and Web site postings? If so, should the certification form simply contain a box to check that the requirements have been met, or should the certification form request additional information, such as the web address of the hearing aid compatibility information published on the service provider's Web site, if applicable, and whether the service provider has received inquiries or complaints about the availability of hearing aid compatible handsets? What are the costs and benefits of using a certification approach instead of the existing reporting approach? Which approach better serves the public interest?

11. *Timing.* Assuming that the Commission adopts a reporting exemption or modified reporting requirement, the Commission seeks comment on when such a change should become effective (*e.g.,* as soon as is possible, after some period of time, or after some triggering event). Would it be in the public interest to have the change become effective as soon as possible, such that the Commission affords relief to Non-Tier I Service Providers at the soonest applicable filing deadline? Alternatively, would a better approach be to have the change become effective at some alternative point in time or after a certain trigger is met, (*e.g.,* only after a Non-Tier I Service Provider meets either the 66 or 85 percent enhanced deployment benchmarks that the Commission adopted last year)? The Commission seeks commenters to explain how their proposed approach would best serve the public interest. The Commission also seeks comment on the costs and benefits of the various approaches.

12. *Related Changes.* The Commission seeks comment on whether any changes to other aspects of the section 20.19 hearing aid compatibility requirements would be necessary or appropriate to accommodate or reflect a reporting exemption or modified reporting requirement for Non-Tier I Service Providers. For example, the *de minimis* exception rule, while otherwise exempting certain service providers from the requirements of the hearing aid compatibility rules, requires these providers to continue to submit annual FCC Form 655 reports. The Commission seeks comment on whether it makes sense to retain this requirement for service providers if only, *e.g.,* Tier I carriers are required to submit annual FCC Form 655 reports. The Commission also seeks comment on any other changes to section 20.19 of the rules if the scope of the reporting requirement exemption depends on factors such as the number of subscribers. If the Commission adopts a reporting exemption or modified reporting requirement in this proceeding, what changes to the online FCC Form 655 or related instructions, if any, would be necessary or appropriate to implement the exemption?

13. *Other Updates.* Finally, in light of various changes in the marketplace since these reporting requirements were adopted, the Commission seeks comment on additional ways to streamline or update hearing aid compatibility reporting for all service providers, including Tier I carriers.

[1] To the extent parties support an alternative definition or size standard for a reporting exemption, we seek comment on the burdens applicable to providers meeting that definition or standard.

Commenters should provide quantitative and qualitative cost and benefit analyses to support their proposals and to evaluate whether any aspects of the reporting requirements are unnecessary and outdated or could be streamlined or simplified to reduce burdens. Commenters should address, for example, whether reporting of handset offerings on a month-to-month basis and the level of details reported under our rules and the current FCC Form 655 continue to remain appropriate to protect consumers, or whether they can be modified to reduce burdens while preserving benefits to consumers. For example, should the Commission continue to require service providers to provide the model number and FCC ID directly associated with each model that they are reporting as compatible, together with the M and T rating that each such model has been certified as achieving under the ANSI C63.19 standard? Should the reports continue to include the air interface(s) and frequency band(s) over which each reported handset model operates? Do such reports need to track compliance on a month-to-month basis in order to protect consumers? Commenters should consider all additional ways to streamline and improve the quality and usefulness of the Form 655 and whether there are alternative, less costly ways to ensure that current and future deployment benchmarks are being met. For instance, does or could the Commission obtain hearing aid compatibility information as part of other data collections, such as from the manufacturer applications for equipment certifications of handsets? If commenters find that the currently collected information is insufficient, they should explain why and how it can be improved, or whether this information can be combined with other sources to streamline the hearing aid compatibility reporting requirements. Further, can third party sources, such as GARI, replace some of the information the Commission requires? Commenters should provide specific information about what information collected in the Form 655 is duplicative to other available Commission or third party data. Any proposed changes should include an analysis of costs and benefits of current and proposed collections, and how the proposed changes will continue to preserve the benefits to consumers from our policy objectives.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities of the policies and rules proposed in this NPRM. 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 provided above. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

1. Need for, and Objectives of, the Proposed Rules

15. For some time now, the Commission has required all covered device manufacturers and wireless service providers regardless of size to file annual reports on their offering of handsets that are compatible with hearing aids. Beginning in 2003, the Commission established a schedule requiring covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008. In 2008, the Commission extended annual reporting requirements on an open-ended basis for covered device manufacturers and wireless service providers in order to verify compliance with the hearing aid compatibility rules. The Commission required the same reporting content from all covered entities, regardless of size, including those that come under the *de minimis* exception in the hearing aid compatibility rules. These reporting requirements have helped the Commission fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets, verifying compliance with the rules, and ensuring that the public has useful information on compatible handsets.

16. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority, made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on July 15, 2009.

17. In this document, the Commission seeks comment on whether and to what extent to exempt wireless service providers that are not Tier I carriers (Non-Tier I Service Providers) from annual FCC Form 655 reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. The Commission states that numerous parties, especially rural and small wireless service providers, have asserted for some time that preparing these annual reports is burdensome. The Commission seeks comment on the burdens of compliance with the Form 655 reporting requirements for Non-Tier I Service Providers, and whether the benefits of the reporting requirement as applied to these providers continues to outweigh the costs or burdens the reporting requirement places on them. Specifically, the Commission seeks comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objectives of providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. With regard to monitoring the compliance of Non-Tier I Service Providers with the hearing aid compatibility rules, the Commission seeks comment on whether it should rely on the informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other hearing aid compatibility requirements. The Commission also seeks comment on whether eliminating or modifying the reporting requirement would permit Non-Tier 1 Service Providers to save costs without an appreciable negative impact on the Commission's enforcement objectives.

18. In this document, the Commission asks detailed questions to help it evaluate these issues, and asks parties to submit specific data in response to the *Notice*. In addition, the Commission seeks comment on the scope of the exemption, when the exemption should begin to apply, and whether other changes to the hearing aid compatibility rules or the FCC Form 655 may be necessary or appropriate to implement or reflect the new exemption.

2. Legal Basis

19. The proposed actions for which comments have been sought in this document is authorized under sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 610.

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

20. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as

the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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. Below, the Commission provides a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

21. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

22. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with Internal Revenue Service (IRS).

23. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 37, 132 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

24. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment, including unlicensed devices. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, radio and television studio and broadcasting equipment. The Small Business Administration has established a size standard for this industry of 750 employees or less. U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry is small.

25. *Part 15 Handset Manufacturers.* The Commission has not developed a definition of small entities applicable to unlicensed communications handset manufacturers. The SBA category of Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is the closest NAICS code category for Part 15 Handset Manufacturers. The Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing industry is comprised of 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.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, as firms having 750 or fewer employees. U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Thus, under this size standard, the majority of firms can be considered small.

26. *Wireless Telecommunications Carriers (Except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.'' The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite) is that a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

27. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

28. Also included in this classification is Personal Radio Services, which provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of the Commission's rules. These services include Citizen Band Radio Service (''CB''), General Mobile Radio Service (''GMRS''), Radio Control

Radio Service (''R/C''), Family Radio Service (''FRS''), Wireless Medical Telemetry Service (''WMTS''), Medical Implant Communications Service (''MICS''), Low Power Radio Service (''LPRS''), and Multi-Use Radio Service (''MURS''). The Commission notes that many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base a more specific estimation of the number of small entities under an SBA definition that might be directly affected by our action.

29. *Wireless Resellers.* The SBA has not developed a small business size standard specifically for Wireless Resellers. The SBA category of Telecommunications Resellers is the closest NAICS code category for wireless resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

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

30. The Commission is not proposing to impose any additional reporting or record keeping requirements. Rather, as discussed in the next section, the Commission is seeking comment on whether and to what extent it can reduce burdens on small wireless service providers by exempting them from hearing aid compatibility reporting requirements. Presently, these requirements include filing electronic FCC Form 655 on an annual basis. However, the Commission also asks whether it should require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements.

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

31. The RFA requires an agency to describe any significant alternatives that it has considered in developing its 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 or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

32. To assist the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in this *Notice,* and to better explore options and alternatives, the Commission has sought comment from the parties. In this *Notice,* the Commission has requested that commenters estimate the number of small entities that may be affected by any rule changes that might result from this *Notice,* to assist the Commission in analyzing the total number of potentially affected small entities. The *Notice* also seeks comment on whether and to what extent it should exempt wireless service providers that are not Tier I carriers from annual reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. Under the Commission's current hearing aid compatibility rules, all covered wireless service providers regardless of size must electronically file FCC Form 655 with the Commission in January of each year. While these reports have helped the Commission meet several of its objectives, the Commission is seeking comment on whether the burden of filing this form for small wireless service providers outweighs the benefits that the form provides the Commission and the public. The Commission is seeking comment, in part, on whether and how this change would benefit small entities.

33. The Commission expects to more fully consider the economic impact on small entities, following the review of comments filed in response to this document. In seeking comment on whether to exempt non-nationwide wireless service providers from annual reporting requirements, the Commission considers several alternatives and steps it could take to implement its proposal. For example, the Commission invites comment on whether the hearing aid compatibility rules should incorporate an alternative definition or size standard on which a reporting exemption for small, rural, or regional service providers could be based. Specifically, the Commission asks whether the exemption could be based on a threshold number of subscribers. The Commission also seeks comment on whether to limit the new exemption to wireless service providers who meet the small size standard that is incorporated in the *de minimis* rule, *i.e.,* wireless service providers with 1500 or fewer employees. The Commission further seeks comment on the timing of when such an exemption should go into effect. Finally, the Commission asks whether to require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements. The Commission invites comment on ways in which the Commission can achieve its goals, but at the same time further reduce the burdens on small entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

34. None.

B. Initial Paperwork Reduction Act Analysis

35. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Other Procedural Matters

1. *Ex Parte* Rules—Permit-but-Disclose

36. The proceeding that the Notice of Proposed Rulemaking initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 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.

III. Ordering Clauses

37. Accordingly, *it is ordered,* pursuant to sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended 47 U.S.C. 154(i), 303(r), and 610, that this Notice of Proposed Rulemaking *is hereby adopted.*

38. *It is further ordered* that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before [thirty days after the date of publication in the **Federal Register**], and reply comments on or before [forty-five days after the date of publication in the **Federal Register**].

39. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend part 20 of title 47 of the Code of Federal Regulations as follows:

PART 20—COMMERCIAL MOBILE SERVICES

■ 1. The authority citation for Part 20 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

■ 2. Section 20.19 is amended by revising paragraph (i)(1) to read as follows:

§ 20.19 Hearing aid-compatible mobile handsets.

* * * * *

(i) *Reporting requirements*—(1) *Reporting dates.* Manufacturers shall submit reports on efforts toward compliance with the requirements of this section on an annual basis on July 15. Tier I carriers shall submit reports on an annual basis on January 15. Service providers that are not Tier I carriers are not required to submit reports. Information in the reports must be up-to-date as of the last day of the calendar month preceding the due date of the report.

* * * * *

[FR Doc. 2017–22189 Filed 10–12–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket No. 17–192, CC Docket No. 95–155; FCC 17–124]

Toll Free Assignment Modernization; Toll Free Service Access Codes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, a Notice of Proposed Rulemaking (*NPRM*) seeks comment on allowing the Commission to assign numbers by auction, on a first-come, first-served basis, by an alternative assignment methodology, or by a combination of methodologies. The *NPRM* seeks comment on allowing a secondary market for toll free numbers and on setting aside toll free numbers necessary to promote health and safety for use, without cost, by government agencies and non-profit health and safety organizations. The *NPRM* also seeks comment on whether to consider changes to overall toll free number administration. The intended effect of this *NPRM* is to make toll free numbers available on a more equitable and efficient basis by assigning mutually exclusive toll free numbers to the parties that value them most.

DATES: Comments are due on or before November 13, 2017, and reply comments are due on or before December 12, 2017. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before December 12, 2017.

ADDRESSES: You may submit comments, identified by both WC Docket No. 17–192, and CC Docket No. 95–155 by any of the following methods:

▪ *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* 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 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

▪ *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, Federal Communications Commission, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, E. Alex Espinoza, at (202) 418–0849, or *alex.espinoza@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 17–192, and CC Docket No. 95–155, adopted September 26, 2017, and released September 28, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It is available on the Commission's Web site at *https://www.fcc.gov/document/fcc-proposes-modernize-toll-free-number-assignment.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998), *http://www.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf.*

▪ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*

▪ *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.

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Synopsis

I. Introduction

1. Toll free calling originated in 1967, and to this day remains an important feature of the communications system. Even with the growth of e-commerce, many businesses, large and small, continue to use toll free numbers for sales and customer service, as well as for advertising and marketing purposes. Government organizations and non-profit health, safety, educational, or other non-profit public interest organizations also use toll free numbers to provide vital health and safety services to the public. While the Commission's current rule uses a first-come, first-served approach to the assignment of toll free numbers, to help ensure the continued usefulness and availability of this finite resource, we now examine alternative assignment methodologies. Specifically, we propose amending our rules to allow for use of an auction to assign certain toll free numbers—such as vanity and repeater numbers—in order to better promote the equitable and efficient use of numbers. With the opportunity afforded by the opening of the 833 toll free code, we propose to use an auction for assigning numbers for which mutually exclusive interest has been expressed. Mutually exclusive numbers are those toll free numbers for which there are two or more requests for assignment. In this Notice of Proposed Rulemaking (*Notice*), we also consider a variety of other means to modernize toll free number assignments that are consistent with our statutory mandate to make ''numbers available on an equitable basis.''

II. Background

2. Since mandating the porting of toll free numbers and introducing the second toll free code, 888, to relieve exhaust of the original 800 code, the Commission has sought to assign numbers in a manner that is equitable and efficient, and that fosters a smooth introduction of a new code. Doing so required the Commission to address the treatment of vanity numbers, those numbers that spell a name or word of value to the number holder (*e.g.,* 1–800–FLOWERS), as well as repeater numbers that are easy to remember (*e.g.,* 1–800–222–2222), as new codes open. Attempting to assign these desirable numbers equitably, the Commission in 1997 initially permitted 800 number subscribers the right of first refusal to reserve corresponding numbers in the new 888 code. After the 888 code opening, however, the Commission adopted in 1998 the current first-come, first-served rule, codified in section 52.111 of the Commission's rules. Although the Commission considered auctions to be ''generally efficient,'' the Commission concluded at that time the first-come, first-served rule was a preferable mechanism for toll free number assignment. The Commission followed the first-come, first-served rule, with slight modifications made by the Wireline Competition Bureau (Bureau), for the next four code openings (877, 866, 855, and 844), as well as for those instances in which toll free numbers are released back into the pool of available numbers. For the 855 and 844 code openings, as well as the release of valuable 800 numbers that had been disconnected, the Bureau limited Responsible Organizations to obtaining 100 numbers per day for the

first 30 days of the code opening to better ensure an efficient and equitable distribution of high value numbers in those two codes.

3. In an attempt to extend the life of each toll free code, the Commission also prohibited warehousing, hoarding, and brokering of toll free numbers. Thus, the Commission's current rules prohibit ''warehousing'' of a toll free number, defined as the practice in which a Responsible Organization (RespOrg), an ''entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber,'' 47 CFR 52.101(b) either directly or indirectly through an affiliate, reserves a number from the toll free database without having an end user subscriber for whom the number is being reserved. Similarly, the Commission's rules prohibit the practice of ''hoarding''—the acquisition by a toll free subscriber from a RespOrg of more toll free numbers than the toll free subscriber intends to use for the provision of toll free service. And, finally, the definition of hoarding also prohibits number brokering, which is the selling of a toll free number by a private entity for a fee.

4. Almost 20 years ago, the Commission considered an auction approach to toll free number assignment in the *1998 Toll Free Order.* In doing so, the Commission recognized that auctions ''offer all participants an equal opportunity to obtain a particular vanity number.'' The order also determined that although auctions are ''generally efficient,'' it could not ''say on the present record that auctions of vanity numbers would produce efficiencies that would outweigh the practical difficulties,'' such as cost, administration, and impact on the international membership of the North American Numbering Plan (NANP). Recently, however, with the opening of the 833 toll free code, the Commission took steps to reevaluate number assignment by establishing a series of pre-opening procedures to identify toll free numbers that could be part of an auction or other alternative assignment methodology. Specifically, the Bureau directed each RespOrg to ''submit a single request for up to 2,000 individual preferred 833 toll numbers.'' The Bureau then directed Somos, Inc., the Toll Free Numbering Administrator (TFNA), to review all 833 number requests and identify mutually exclusive numbers—those numbers for which there are two or more requests for assignment. Somos identified approximately 17,000 mutually exclusive numbers and placed these numbers in unavailable status pending the outcome of this proceeding. These mutually exclusive numbers include repeaters numbers (*e.g.,* 833–333–333 and 833–888–8888) as well as numbers that spell memorable words and phrases (*e.g.,* 833–DENTIST, 833–DIVORCE, 833–DOCTORS, 833–FLOWERS, 833–HOLIDAY, 833–INJURED, and 833–LAWYERS). Somos notes that 147 RespOrgs participated in the pre-code opening process and the top ten mutually exclusive toll free numbers were requested by 65 or more RespOrgs. The top 25 numbers were requested by 48 or more RespOrgs, and the top 50 numbers were requested by 43 or more RespOrgs. The remaining numbers were assigned as established in the Commission's existing rule, that is, on a first-come, first-served basis.

III. Discussion

A. Distribution of Toll Free Numbers

5. We propose expanding the existing toll free number assignment rule to permit use of an auction methodology, among other assignment mechanisms, to assign toll free numbers. To do so, we propose to revise section 52.111 of our rules to allow the Commission to assign numbers in a manner that is equitable, including by auction, on a first-come, first-served basis, an alternative assignment methodology, or by a combination of the forgoing as circumstances require. We seek comment on this proposal.

6. We also seek comment on conducting a single round, sealed-bid Vickrey auction for the roughly 17,000 numbers set aside, pursuant to the *833 Code Opening Order,* for which there were mutually exclusive requests. If adopted, we intend to consider the outcome of the 833 auction to determine if changes need to be made to future code opening assignments. In addition, we propose—and seek comment on—revising our rules to promote development of a secondary market for toll free numbers.

7. *Equity Considerations.* Section 251(e)(1) of the Communications Act directs the Commission to make numbers available on an equitable basis. The Commission has adopted rules to implement this obligation, as well as to serve the broader public interest in telephone number administration. We believe that toll free numbers generally can be made available equitably via an auction—under which RespOrgs bid for numbers valuable to them—and that in many cases, including with respect to the mutually exclusive 833 toll free numbers, such an auction approach would be more equitable than under the Commission's current first-come, first-served assignment rule. Parties who want particular toll free numbers often will have a better opportunity of acquiring those numbers, albeit for a price, in an auction than under the Commission's current rule, which does not take into account the need for or the value placed on particular numbers. As discussed above, with respect to 833 numbers, there are at least 65 RespOrgs that want the top-ten mutually exclusive numbers. This demonstrates that there is demand for certain mutually exclusive numbers, and thus we believe that auctioning these numbers would be a more equitable assignment mechanism than assigning them on a first-come, first-basis. We note that although a first-come, first-served system may randomly assign mutually exclusive numbers, it may also less equitably reward actors that invest in systems to increase their chances that their choices are received first by the TFNA. Moreover, if we allow for a secondary market for toll free numbers, it would be inequitable for a RespOrg or subscriber to get a valuable public resource for free, but then later be able to profit from it even when others would have paid for it initially.

8. We note that the first-come, first-served rule has raised questions about whether recent toll free code openings were equitable because certain RespOrgs had enhanced connectivity to the toll free database that allowed them to quickly reserve desirable numbers. To address these concerns for the 855 and 844 toll free code openings, the Bureau directed the TFNA to limit the quantity of toll free numbers a RespOrg may reserve to 100 per day for the first 30 days. The Bureau found that this limited allocation would distribute desirable numbers more equitably. If the Commission adopts an auction approach for toll free numbers, such rationing of numbers would not be necessary. All bidders would have the same access to numbers in a new toll free code. We seek comment on whether this market-based auction approach would yield a more equitable outcome by allowing any RespOrg an opportunity to bid for numbers based on their valuations.

9. *Efficiency and Public Interest Considerations.* In addition to meeting the statutory mandate of making numbers available on an equitable basis, an auction method of assigning toll free numbers is more efficient and serves the public interest in toll free number conservation. An auction assignment mechanism for mutually exclusive toll free numbers will promote efficiency by assigning these numbers to the parties that value them most. Moreover, toll

free numbers are a limited resource that are often used inefficiently because there is no real cost associated with obtaining that resource. If subscribers and RespOrgs are required to pay for toll free numbers, they are more likely to acquire only the numbers they or their customers need; they will have no incentive to acquire numbers beyond those needed. Thus, we believe that a toll free number auction will help limit exhaust of toll free numbers and further the public interest. We seek comment on our analysis.

1. Costs and Benefits of an Auction

10. The investment by RespOrgs in enhanced connectivity to the database discussed above is evidence of strong competing demand among RespOrgs for toll free numbers. And the fact that the Commission places constraints on how many numbers a RespOrg can obtain at any point, and also on hoarding, suggests that certain toll free numbers are currently underpriced. We therefore believe that assignment via auction would more equitably and efficiently address this source of excess demand. Moreover, to the extent that, with the current assignment method, transaction costs impede or restrict the efficient assignment of toll free numbers, the public interest gains from implementing an efficient auction mechanism would be substantial. Thus, we believe that the equity and efficiency gains of an auction of mutually exclusive toll free numbers outweigh any costs of implementing an auction. We seek comment on this analysis. Also, if any commenters assert that an auction approach is inequitable, they should clearly explain why an auction approach would be inequitable, as well as how the current means of assignment, or some other means, would be more equitable.

11. In arriving at our 833 number auction proposal, the Commission has considered the experience of the Australian Communications and Media Authority (ACMA) in auctioning toll free numbers. Between 2005 and 2015, the ACMA attempted to auction 1.8 million unreleased ''freephone'' (toll free) and ''local-rate numbers,'' considered desirable (as vanity numbers or repeaters), which were branded as ''smartnumbers®.'' The results of the auction show that the most desirable smartnumbers® were sold in highly competitive auctions early in the process. However, after the initial auctions within the first year of the most desirable numbers, the vast majority of smartnumbers® were uncontested and thus auctioned at set reserve prices. In reviewing the outcome of the ACMA auction, we propose, at least for the 833 code, to auction only mutually exclusive toll free numbers for which there is some demonstration of demand, and to assign the rest on a first-come, first-served basis. We seek comment on how the Commission has considered the results of the ACMA experience in developing our own auction model.

2. Auction Procedures for 833

12. As discussed above, the Commission proposes to assign toll free numbers in a manner that is equitable, including by auction, on a first-come, first-served basis, by alternative assignment methodologies, or by a combination of these methods, as circumstances require. In this section, we seek comment on certain auction procedures for the roughly 17,000 mutually exclusive numbers, which were set-aside in our *833 Code Opening Procedures Order.* Specifically, we propose to use a single round, sealed-bid Vickrey auction, as discussed below. We emphasize that our proposal discussed herein is limited to the set-aside 833 mutually exclusive toll free numbers. If adopted, we intend to consider the 833 auction process and outcomes in deciding how to make future toll free assignments. In particular, we may decide whether to use the single round, sealed-bid Vickrey auction model or another auction model, to employ the current first-come, first-served policy, or an alternative assignment method, or combination of these methods, as circumstances require. We seek comment on these proposals.

a. Single Round, Sealed-Bid Vickrey Auction

13. *Single Round, Sealed-Bid Auction.* We propose to assign numbers using a single round, sealed-bid auction. This methodology would be used for the roughly 17,000 numbers set aside in the 833 code. In such an auction, a bidder submits bids for individual numbers privately to the auctioneer. We propose use of a single round, sealed-bid auction here because such auctions are relatively easy to implement and to bid in and, therefore, less costly to both the auctioneer and participants than more complex multi-round auctions.

14. We further propose an auction in which participants simultaneously submit separate bids for each number they are interested in, with the winning bid for each number being determined solely by bids for that number, independent of the bids for any other number. Thus, the proposed auction will not allow for package bids—bids for combinations of numbers. Thus, if a bidder values one number at, say $10, and another at $20, and the two together at $50, the bidder cannot place three bids, one of $10 for the first number, a second of $20 for the second, and a third of $50 for both. Instead, only two bids can be placed, one for each of the two numbers, with no guarantee both numbers will be won. While it is likely that some bidders may demand more than one number in an auction, we do not believe valuation synergies, to the extent they exist, warrant allowing package bids. We seek comment on this proposal. We further seek comment on other advantages or disadvantages of allowing package bids.

15. *Vickrey (Single Round, Sealed-Bid) Auction.* To assign 833 mutually exclusive toll free numbers, we also propose to incorporate a Vickrey auction into the 833 auction procedures. In a Vickrey auction, the highest bidder for a number wins and pays the second-highest bid for the number. If we determine that package bids are allowed in an auction, then the bidders who maximize overall revenue from the auction win and pay the opportunity costs (highest alternative value) of their bids as discussed in more detail in section IV below.

16. A Vickrey auction could result in an equitable and efficient assignment of mutually exclusive toll free numbers. For example, in a Vickrey auction for one object, such as a toll free number, because the winner pays the second highest bid, the winner's surplus (the winner's value minus the amount paid), does not depend on the winner's bid. Since the amount paid is not a function of the winner's bid, it is optimal for bidders in this type of auction to bid their valuation. This result rests on the assumption that bidder values are independent, *i.e.,* a bidder's payoff is only a function of that bidder's estimates of value, and not a function of the opponents' estimates of value. With interdependent valuations, bidding one's value is typically not optimal. Independence implies bidders do not interact in a future circumstance, where any information gained by observing the auction's outcomes (notably, if bid amounts are later made public) could be used. The result also assumes the auction's rules are enforced. Similarly, bidders in a Vickrey auction with package bidding can do no better in equilibrium than to bid their valuations. As a consequence of truthful bidding, a Vickrey auction allocates the numbers efficiently to the bidders who hold the highest valuations. We do note that although a Vickrey auction may lead to an efficient outcome, are there disadvantages or costs to this approach? Furthermore, it might be undesirable for

bidders in a Vickrey auction to fully reveal their valuations in the auction, particularly when some bids become public information. We seek comment on using the Vickrey auction methodology for the 833 mutually exclusive numbers and ask parties to elaborate on the advantages and disadvantages of this proposal.

17. *Reserve Prices.* Reserve prices (or minimum acceptable bids for a number) can help to improve revenue in an auction. However, our objective is primarily to increase the efficiency of toll-free number assignments. Since the numbers that are not auctioned are offered on a first-come, first-served basis at zero price, we recognize that an equitable assignment of numbers in the auction may be inconsistent with the imposition of a reserve price. Furthermore, establishing a level of the reserve price that is in the public interest may require precise information that is unavailable prior to running a first auction for toll free numbers. We seek comment on whether a reserve price should be imposed in the auction, and generally on the potential advantages and disadvantages of reserve prices in an auction of toll-free numbers. If a reserve price is imposed in the auction, what factors should we consider in determining a level of the reserve price that is in the public interest?

b. Alternative Auction Methodologies

18. *Pay-Your-Bid Auction.* An alternative methodology is a pay-your-bid auction whereby the highest bidder wins and pays his or her bid. A pay-your-bid auction also has benefits. This type of auction is generally straightforward because, as the name suggests, the highest bidder for a number wins the auction and pays his or her bid. Moreover, the pay-your-bid auction may yield significantly higher revenues than the generalized Vickrey second-price auction. On the other hand, the pay-your-bid auction may give rise to an inefficient toll free number assignment because in a pay-your-bid auction, bidding to reflect true valuations is not usually optimal. Bidding one's valuation in a pay-your-bid auction guarantees zero payoff: the difference between value and bid (the bidder's surplus) is equal to zero whether one wins or not. As a result, to ensure a positive expected payoff, bidding below one's value is optimal in the pay-your-bid auction.

19. *Open Auction.* Although we propose a Vickrey auction, we seek comment on the use of an open auction. Open auctions can help bidders form more accurate expectations of the value of an object in environments in which bidders possess different and uncertain information about the objects for sale. Examples of open auctions include the traditional English auction where the auctioneer calls increasing prices, eBay auctions where ascending bids are placed over a period of time, and the simultaneous multi-round auction employed by the Commission for the allocation of electromagnetic spectrum. Open auctions offer bidders the opportunity for price discovery and can lead to more efficient outcomes. However, these types of auctions may be more costly to implement, and we expect the bidders' valuations for toll free numbers will not be subject to significant uncertainty, as discussed in more detail in section IV below. Idiosyncratic is a term of art. An example of idiosyncratic valuations is where one person values a painting because it evokes certain memories, another values it because of the artist's composition and technique, and a third values the painting because it fits well in a pre-selected space. The valuation that each person attaches to the painting is not changed by knowing whether or why the other persons like it. We seek comment on this issue. Would bidders change their valuations if they knew more about other bidders' valuations? Would this new information be central to an increase in the efficiency of the auction? Are there other advantages and disadvantages of an open auction that we should consider?

20. *Other Auction Designs.* Other than the auction designs and procedures discussed above, we seek comment on whether there are other auction designs we should consider. We believe that the auction design best suited to yield an outcome that is in the public interest depends in large measure on the institutional details of the toll free number market. We therefore seek comment from industry and interested stakeholders about the essential characteristics of the toll free number market that might be helpful to develop an auction design most suitable to serve that market and the broader public interest. We invite parties to provide any alternatives or offer further economic, legal, or logistical insights about these and other auction designs and procedures.

3. Auction Eligibility

21. We propose to allow only RespOrgs to bid in an auction; potential subscribers seeking mutually exclusive toll free numbers would need to approach one or more RespOrgs about placing a bid on their behalf. We seek comment on this proposal. We think our proposal is consistent with the RespOrg's role as manager and administrator of toll free records in the TFNA database. Our proposal also reflects in part the importance of RespOrgs as market makers. Further, RespOrgs may have strengths in maximizing the valuation of certain numbers, for example, by piecing together geographic coalitions of subscribers who may be unable to coordinate by themselves. We seek comment on this proposal. We also seek comment on whether we should consider allowing subscribers to directly participate in an auction. Are there benefits to allowing their participation? Would an auction that includes both subscribers and RespOrgs be difficult to implement? Assuming we use an auction methodology for future code openings or other toll free assignments and identify mutually exclusive numbers, how should we define mutual exclusivity? Should we consider mutually exclusive numbers those numbers which two or more RespOrgs have requested, or numbers that have been requested by two or more subscribers? If mutual exclusivity means toll free numbers requested by two or more RespOrgs, is there a way to determine how many of these numbers are sought by more than one subscriber? Are there legal restrictions to allowing subscribers to circumvent their relationship with RespOrgs to participate directly in an auction, and would other provisions in our existing toll free rules need to be revised to allow participation by subscribers?

22. The greater the number of auction participants, the more effective the 833 number auction and subsequent toll free number auctions will be. We seek comment on ways to notify potential subscribers about auctions and encourage their participation through their chosen RespOrg(s). Should we consider including subscriber information in the TFNA database? Currently, the TFNA can notify RespOrgs about auctions—because the toll free database identifies the RespOrg for each number assigned—but it cannot notify subscribers potentially interested in bidding for a number because the database does not contain subscriber information. Would inclusion of subscriber information in the toll free database provide greater market transparency for auction bidders, improving the efficiency of the auction? Are the costs of including this information in the database significant? Would having subscriber information in the database be useful for other reasons, such as helping the TFNA and the

Commission resolve disputes over the use of a toll free number or helping law enforcement agencies identify the subscriber for a number being used for unlawful purposes? Are there privacy or other considerations that would militate against including subscriber information in the database that would be visible to other bidders (as opposed to being visible just to TFNA)?

23. We propose not to limit the quantity of toll free numbers RespOrgs can acquire through the auction and seek comment on this proposal. We think that limiting the number of bids that can be placed by a RespOrg in the auction may hamper efficiency because it may constrain primarily the bidders who hold the highest valuations. Do parties agree with this belief? If subscribers are allowed to bid for numbers, should we impose limits on the quantity of 833 numbers they can acquire in the auction?

4. Auctioneer

24. We seek comment on the characteristics of an auctioneer who would be able to put in practice the auction process we propose above at the lowest cost. Should we designate the TFNA as the auctioneer?

5. Treatment of Auction Funds

25. We propose that the net proceeds from any toll free number auction proposed in this *Notice* be directed to defray the costs of number administration. Specifically, we propose that auction funds be applied to offset the costs of toll free numbering administration by the TFNA within the NANP for the benefit of all RespOrgs and subscribers. This approach would include the administrative costs of implementing numbering auctions should the Commission designate the responsibility to the TFNA. The TFNA administers toll free numbers, which are part of the NANP numbering resources. The NANP is comprised of 20 member countries. We propose that the auction proceeds from any toll free auction be applied to offset the costs of the TFNA to equally benefit RespOrgs and subscribers in those member countries to the extent they pay fees to the TFNA. Commenters should address whether this approach is the best method of applying the proceeds from the auction, or whether alternative methods are preferable. We also seek comment on any legal, logistical, or international implications of this proposal, given the international composition of the NANP. Further, we do not believe that applying auction funds to offset the TFNA costs, within the NANP, implicates any U.S. fiscal statutes. Pursuant to our authority under section 251(e), the Commission has used a number of different approaches to collect funds to defray the costs of numbering administration without implicating, for example, the Miscellaneous Receipts Act (MRA). None of these cost recovery mechanisms implicated the MRA, and we do not believe that applying auction funds to offset the TFNA costs, within the NANP, would implicate the MRA, due to the Commission's authority under section 251(e). We seek comment on this view.

26. We also seek comment on implementation issues from applying auction funds to offset the TFNA. We currently require that the TFNA's tariffed rates charged to RespOrgs be based on the cost of providing its services, determined on a year-by-year basis. What is the best way to factor in auction revenues? Because the TFNA is limited to recovering its revenue requirement, and must budget and adjust its fees accordingly each year, how should it account for additional revenues from a number auction? Should we create a system whereby auction proceeds realized in a given calendar year are held and remitted to the TFNA in the beginning of the following year (early January)? Or, are there alternative remittance systems that are preferable?

27. If an auction generates more revenue than the TFNA revenue requirement for a particular year, parties should comment on how to allocate those additional funds. Should the TFNA retain any excess auction revenues, and apply them to the revenue requirements of future years? Alternatively, should such remaining auction proceeds instead be remitted to the NANP Administrator (NANPA) to defray the general costs of administering it? Would directing any excess proceeds in this manner benefit all users of the NANP across the 20 countries that comprise it? Are any of the federal statutes discussed above implicated if we handle additional auctions proceeds in this manner?

6. Alternative Assignment Methodologies

28. The Commission seeks comment on the costs and benefits of other possible assignment approaches for desirable 833 numbers. We classify assignment approaches as either market-based, such as an auction, or administrative, such as a lottery or first-come, first-served. Notwithstanding our proposal to adopt the market-based auction approach described above, an administrative approach may also have value. Therefore, we also seek comment on possible benefits and drawbacks of administrative assignments.

29. We wish to use any 833 auction as an experiment to ensure that we develop well-tested rules going forward. After we review the record in response to this *Notice,* we anticipate adopting rules for auctioning the 833 mutually exclusive numbers. Upon completion of any 833 auction, the Bureau will report to the Commission on the outcomes of the auction and lessons learned. As we draw on the experience of the 833 auction, the Bureau will refresh the record in this proceeding before the Commission considers adopting final rules for the distribution of other toll free numbers going forward.

B. Secondary Markets for Toll Free Numbers

30. Consistent with the market-based approach for assigning mutually exclusive toll free numbers, we seek comment on revising our current rules to promote development of a secondary market for toll free numbers generally. A secondary market would allow subscribers to reassign their toll free numbers to other subscribers for a fee (or other compensation) the parties negotiate. Under the Commission's rules, RespOrgs are responsible for managing and administering toll free records on behalf of subscribers. *See* 47 CFR 52.101(b). We do not propose to change those responsibilities in this *Notice.* We are mindful of long-standing Commission and legal precedent that a telephone number is a public resource that is not privately owned and cannot be sold. We seek comment, however, on whether we should change our rules so that even though a subscriber does not own a toll free number, he or she may reassign the right to use that number for a fee. For example, in a secondary market, a business owner who wants to sell his or her business may sell the right to use the toll free number associated with the business. This reassignment would benefit both the seller and buyer of the business. Therefore, a secondary market may be more equitable and promote economic efficiencies as the number would be better utilized by the new business owner than if it were returned to the pool of available toll free numbers and subject to first-come, first-served assignment.

31. Current market realities appear to support a secondary market as an efficient and productive use of numbers. Despite the fact that toll free numbers are a public resource and neither carriers nor subscribers ''own'' their numbers, it takes little effort to find toll free numbers advertised for sale. An

Internet search for ''toll free numbers for sale'' produces numerous options to presumably buy and sell toll free numbers, as do online auction site searches for ''toll free number.'' Indeed, the Enforcement Bureau has taken action against an individual who, through his company, engaged in multiple rule violations, including brokering ''15 toll free numbers for fees ranging from $10,000 to $17,500 per number'' to a pharmaceutical company. The fact that some parties are willing to take the risk of participating in a black market to obtain toll free numbers suggests that there is significant demand for such numbers. We believe that creating a framework for lawful transactions in these secondary markets would be beneficial by permitting subscribers to legally obtain numbers which they value. Even outside the context of a business ownership change, RespOrgs and subscribers may wish to buy and sell toll free numbers among themselves based on the usefulness of the numbers. We seek comment on our proposal, and in particular, the impact of a rule change on our public resource precedent.

32. We also seek comment on whether the TFNA should receive any transaction proceeds or charge any fees to offset number administration costs. Such funds could be used for the same purpose as we propose for auction funds: to offset the costs of toll free numbering administration by the TFNA within the NANP for the benefit of all RespOrgs and subscribers. Would this be an efficient use of funds? If we did charge a transaction fee for the transfer of toll free numbers in the secondary market, what amount should be charged? Are there legal constraints in charging a transaction fee for the transfer of toll free numbers? Are there international concerns if such fees went to offset costs of the NANP? Additionally, we seek comment on whether a RespOrg should be able to charge a fee for such transfers, and on whether such fees, if charged, should be regulated. Or, should we put in place some other mechanisms to prevent the abuse of any market power RespOrgs might have? Would a secondary market have an impact on settling trademark or branding disputes in desirable toll free numbers?

33. Interested parties should further comment on what types of information the TFNA would need from the buyer and seller to document a reassignment. Would the TFNA need to develop an online system to record any reassignments in the secondary market? How will parties know when a number is available for reassignment, *i.e.,* when a RespOrg or subscriber wishes to sell it? Should the Commission or the TFNA maintain a database that potential buyers could check, or should buyers be responsible for their own advertising of numbers for sale? How could the Commission or the TFNA help ensure members of the public are able to verify that an entity is in fact a RespOrg? Are there additional roles or functions the TFNA could perform or provide that would benefit functioning of a secondary market or market participants?

C. Toll Free Number Administration

1. Toll Free Number Rule Revisions

34. We propose revising certain toll free number rules to support our market approach to assigning certain toll free numbers for new code openings, recovered toll free numbers, and in the secondary market. Specifically, we propose revising the first-come, first-served rule, and seek comment on eliminating the brokering rule entirely. We also seek comment on revising the warehousing and hoarding rules.

35. *First-Come, First-Served Rule.* We propose revising section 52.111 of our rules to allow for the assignment of toll free telephone numbers to RespOrgs and subscribers on an equitable basis by auction, on a first-come, first-served basis, by using an alternative assignment methodology, or by a combination of these approaches as circumstances require. We seek comment on this proposal. Are different or more specific parameters needed? It has been nearly 20 years since the adoption of the first-come, first-served rule. Are there other revisions to that rule we should consider?

36. *Brokering Rule.* The Commission's brokering rule prohibits RespOrgs and subscribers from selling a toll free number for a fee. We seek comment on eliminating the brokering rule as it directly precludes a secondary market for toll free numbers. Alternatively, we seek comment on whether the Commission should relax or suspend the brokering rule in any way. Commenters should address whether these approaches are consistent with the public resource nature of toll free numbers, while still promoting the economic efficiencies of a secondary market in toll free numbers. The brokering rule was adopted with the intention of equitably assigning numbers and minimizing number exhaust. However, we now question whether the brokering rule was a useful way to achieve those ends. We seek comment on whether there are any other modifications we should make to the rule in lieu of eliminating it to avoid any undesirable or unforeseen outcomes.

37. *Warehousing and Hoarding Prohibitions.* The warehousing and hoarding prohibitions are intended to limit exhaust of toll free numbers by ensuring that numbers, once removed from the pool of available numbers, are used efficiently. We seek comment on whether these rules effectively serve their purpose or whether we should revise or eliminate these rules. If numbers could be stored, and traded, would market forces ensure their efficient assignment? Without these rules, will RespOrgs and subscribers hold numbers they no longer need, hoping to sell them later at higher prices? If they were to do so, could we discourage this practice by limiting the amount of time a RespOrg or subscriber may hold a toll free number without either using or selling it? That is, should we require that a number be ''in use'' within a certain time after it is obtained? What constitutes number ''use'' in this context? What time limit should we impose and how should we enforce that limitation? Should we consider increasing administrative fees on RespOrgs (which would be passed on to subscribers) to limit the amount of time a number is held? In the alternative, should the Commission eliminate these warehousing and hoarding prohibitions, along with the brokering prohibition, and rely instead on market forces to determine if and when toll free numbers are sold in the secondary market?

38. *Other Rule Revisions.* We also seek comment on whether the Commission should eliminate or revise any other toll free rules. For example, should the Commission revise the definition of the Service Management System (SMS) Database in section 52.101(d) to include subscriber information as discussed above? Moreover, section 52.103 of the rules contains a number of definitions and rules pertaining to the ''status'' of toll free numbers in the database and when these numbers are available for assignment to subscribers. The term ''status'' refers to whether and how a toll free number is being used. What revisions, if any, to these categories should we consider to promote a secondary market?

2. Toll Free Numbers Used for Public Purposes

39. We seek comment on whether certain desirable toll free numbers necessary to promote health, safety, education, and other public interest goals should be set aside for use, without cost, by government (federal,

state, local and Tribal) agencies as well as by non-profit health, safety, education, or other non-profit public interest organizations. Numerous organizations use desirable toll free numbers for a variety of purposes, such as for contacting the organization for information or assistance and for fundraising. For example, the Department of Health and Human Services uses 800–SUICIDE to support a network of suicide prevention hotlines. Parties should address the advantages and disadvantages of granting an exemption for certain governmental and non-profit health, safety, education, and other non-profit public interest purposes. How would such a system be implemented and administered? Would this system raise any First Amendment, statutory, or other legal issues? For example, how should such non-profit health, safety, education, and other non-profit public interest organizations be defined; should definitions from other sections of the Act or the Commission's rules be used? Should entities other than the ones described above—non-profit health, safety, education, or other non-profit public interest organizations—be included in this definition or receive similar treatment? Should the Commission treat these purposes differently from other purposes for which desirable numbers are used? What are the pros and cons of each approach?

3. Abuse of Toll Free Numbers

40. We also seek comment on ways the Commission may address possible abuse of toll free numbers after they have been assigned to a non-profit health, safety, education, or other non-profit public interest organizations or any purchaser in an auction or in the secondary market? Should the Commission propose a rule stating its ability to reclaim any toll free number that is used for fraudulent or otherwise unlawful purposes? Also, should the Commission create, or direct the TFNA to create, any terms and conditions for use of a toll free number purchased in an auction or the secondary market? Should the Commission codify its authority to reassign a number to another subscriber if there is a strong public interest need to use the number for another purpose. For example, following Hurricane Katrina in 2005, the Commission reassigned 800–RED–CROSS from a for-profit corporation to the American Red Cross so it could facilitate the Nation's response to the disaster wrought by Hurricane Katrina.

4. Toll Free Number Assignment Management

41. In light of the proposed changes to the toll free number assignment methodology in this *Notice,* we seek comment on whether the Commission should consider changes to overall toll free number administration. Since the Commission required designation of an impartial entity to administer toll free numbers, the TFNA has evolved from a Bell Operating Company operated organization, to a non-profit membership corporation. Somos, Inc., the TFNA—organized as an independent, non-profit corporation—administers the toll free SMS. Somos provides access to the SMS pursuant to the SMS Tariff that sets forth the regulations, rates, and charges applicable to SMS services, and describes the features and functions of the SMS.

42. *SMS 800 Tariff.* Should we consider a different mechanism for toll free number administration than the tariff mechanism described above? The TFNA currently files a tariff that outlines the features and functions of the SMS, establishes RespOrg responsibilities and eligibility criteria, and sets forth the rates for service. The tariff also lists both the monthly and non-recurring charges for database access and other SMS services. In the *1993 CompTel Declaratory Ruling,* the Commission declared that RespOrg access to the SMS database ''is a Title II common carrier service and shall be provided subject to tariff.'' Subsequently, in 2013, the Commission found that the reorganized toll free administrator, now Somos, met the neutrality requirements required by section 251(e) of the Act and the Commission's rules, so long as it files and maintains the tariff.

43. Should the Commission consider a different regulatory treatment for SMS service? How, given the central role of the TFNA in the administration of toll free numbers, would we ensure the public is protected from unreasonable rates, terms, and conditions? Alternatively, if the Commission adheres to the current TFNA model, including its filing of a tariff, should the Commission require more transparency in Somos's operations and budget? Are there other ways to make Somos's financial information more transparent? Although the public tariff outlines Somos's general operating procedures, certain information may be difficult to discern and other information is provided to the Commission under confidential cover. As a non-profit organization, Somos is only allowed to recover operating costs. Part of the Commission's rationale in allowing Somos to reorganize as a non-profit membership was ''any savings realized as a result of SMS/800, Inc.'s corporate restructuring is likely to be reflected in lower tariffed rates for RespOrgs, which should in turn lead to lower charges for toll free subscribers.'' Would a more transparent, or itemized accounting of Somos's costs further this goal and also better inform RespOrgs and subscribers of the costs of acquiring toll free numbers? We seek comment and ideas from industry on the roles of the TFNA and tariff as an important means to help us modernize toll free number assignment.

D. Legal Authority

44. The Commission has consistently found that the Act requires the Commission to ensure the equitable, efficient, and orderly assignment of toll free numbers. As noted above, section 251(e)(1) of the Act gives the Commission ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States'' and provides that numbers must be made ''available on an equitable basis.'' Accordingly, the Commission retains ''authority to set policy with respect to all facets of numbering administration in the United States.'' In addition, the Commission has stated that sections 201(b) and 251(e)(1) of the Act ''empower the Commission to ensure that toll free numbers, which are a scarce and valuable national public resource, are allocated in an equitable and orderly manner that serves the public interest.'' This exclusive jurisdiction over numbering policy enables the Commission to act flexibly and expeditiously on important numbering matters. We note the Commission has also relied on sections 1 and 4(i) of the Act to assign toll free numbers on an equitable and efficient basis.

45. The Commission has promulgated toll free number rules to satisfy these congressional mandates. The proposed actions in this *Notice*—including the proposal to use a new simple, low-cost auction method of assigning toll free numbers; and modifications to our current rules to allow a secondary market for toll free numbers that would support market forces after a code opening—are intended to further and better satisfy these mandates.

46. As we noted in the background section of this *Notice,* in 1998, the Commission previously considered using an auction approach to toll free number assignment. In the *1998 Toll Free Order,* the Commission recognized

that auctions are both an equitable and a ''generally efficient'' assignment mechanism.'' At that time, however, the Commission could not say ''based on the present record that auctions of vanity numbers would produce efficiencies that would outweigh the practical difficulties,'' such as cost, administration, and impact on the international membership of the NANP. Our proposal to implement auctions for mutually exclusive toll free numbers is consistent with the Commission's previous finding that auctions are generally equitable and efficient. We believe that auctions would now be a more equitable and efficient approach to assignment of mutually exclusive toll free numbers and that the benefits of such auctions would outweigh any practical difficulties. We seek comment on this assessment. With nearly two more decades of experience and increased demand for toll free numbers, we seek to develop a new record which we believe will show that the efficiencies produced by the proposed auction will outweigh any practical difficulties.

47. For the reasons previously discussed in this *Notice,* we believe the proposals herein are consistent with and further the Commission's statutory mandate to make ''numbers available on an equitable basis.'' These proposals include a more efficient and market-driven approach to assigning toll free numbers, better promote productive use of numbers, and reflect current market realities. We invite comment on the sources of authority discussed above.

IV. Toll Free Auction Design

48. In this Appendix, to assist interested stakeholders in preparing focused and detailed comments on the *Notice,* the Commission provides additional information on our interest in how potential bidders determine the value of toll free numbers, and on the Vickrey auction.

Toll Free Number Valuations

49. The way potential bidders in our proposed auction determine their valuations of coveted numbers, such as 1–833–FLOWERS, can determine whether there are benefits from having a multi-round auction. One possibility is individuals' valuations are idiosyncratic, that is, are inherent to the specific bidder, without commonalities or interdependencies in how subscriber valuations are determined. For example, potential bidders may develop their valuations based on the size of their merchant network, and their business models, and these valuations would not be changed if they were to discover a different bidder valued the same number differently.

50. RespOrgs act as intermediaries in the toll free market. RespOrgs' gains or surpluses from supplying a toll free number may be characterized by significant commonalities or interdependencies, that is, RespOrg valuations of toll free numbers may not be idiosyncratic. Instead, a RespOrg that observed another RespOrg with a significantly higher or lower valuation than its own might wonder if it was misinformed, and the other RespOrg knows something about the value of the number that it does not. A RespOrg derives surplus from acquiring a toll free number only to the extent that it can profitably supply it to a subscriber. This surplus is equal to the difference between the price the RespOrg obtains for the number, and the cost of supplying it. Differences in the technologies RespOrgs use to supply numbers, for example, to provide geographic-based calling, or in the markets the RespOrgs address may give rise to idiosyncratic differences in cost. However, if RespOrgs generally compete with other similar RespOrgs using the same technologies, seeking to supply the same subscribers with largely the same service, then the key factor that might lead such RespOrgs' valuations of a number to differ is their assessment of the highest price that a subscriber is willing to pay for the number (since the relevant RespOrg's have similar costs, and are supplying essentially the same service). While the Commission recognizes many RespOrgs have different business models, it also considers that in general RespOrgs largely use the same technologies to supply the same services to customers with a demand for certain types of valuable toll free numbers. For any such RespOrgs, the Commission does not view differences in the cost of supplying toll free number or their business models as giving rise to significant differences in competing RespOrgs' surpluses from supplying a given toll free number. The *Notice* seeks comment on the extent to which this conclusion is correct, that is, on whether differences in the cost structure or business plans of various RespOrgs competing for the same customers using similar technologies may cause their surpluses from supplying a given toll free number to vary idiosyncratically.

51. If the Commission is right about competing RespOrgs largely using the same technologies to satisfy the same business models, then the surpluses of different RespOrgs from supplying a toll free number are not likely to differ significantly *ex post.* However, the RespOrgs' *ex ante* valuations of a toll free number may be uncertain. In particular, while many RespOrgs likely have a deep understanding of the market for toll free number, and, consequently, their valuations of a given toll free number might be fairly precise, other competing RespOrgs may not have a similar understanding of the market, and their valuations of a given number might be uncertain to some degree. If it is true that at least some competing RespOrgs have materially different estimates of customers' valuations of certain toll free numbers than others, then an open auction might allow bidding RespOrgs to refine their value of the number or numbers they are bidding. However, the Commission believes that, overall, the RespOrgs' valuations of a toll-free number are only slightly affected by uncertainty. We seek to understand the degree to which uncertainty affects some of the RespOrgs' valuations of a toll-free number.

The Vickrey Auction

52. To formulate their views on a Vickrey auction with no package bids, as proposed in the *Notice,* commenters may find this example helpful. Suppose there are two bidders, A and B, and two toll free numbers to be assigned Number 1 and Number 2. Bids are indicated by the dollar amounts in the table below. These bids should not be treated as indicative in any way of the expected value of any of the numbers auctioned, and are provided only as an example.

BIDDING EXAMPLE TABLE

Bidder/No.	1	2	{1,2}
A	$10	$20	$32
B	16	8	25

53. In a Vickrey auction without package bids, but which allows simultaneous bidding over more than one number, only columns 1 and 2 are relevant. Bidder A obtains Number 2 because it bid the highest amount ($20). Bidder A pays the highest non-winning bid for Number 2 ($8). Bidder B obtains Number 1, because it bid the highest amount ($16). Bidder 2 pays the highest non-winning bid for Number 1 ($10). Moreover, our expectation is that the four bids reflect the bidders' true valuation of each number. This is because regardless of what other bids are made, a bidder can always do better by bidding its true value. If instead the bidder underbids, it may lose when it could have won by paying no more and potentially less than his value. If it overbids, it may win and potentially pay

more than the object is worth to it. Therefore, it is optimal to bid his value. This assumes the rules of the auction are fully enforceable, and truth revelation in this auction would not be harmful to the bidders in other contexts. Consequently, if each number's valuation was independent of the other, the auction would be economically efficient. It would assign the numbers to maximize value to the bidders.

54. In a generalized Vickrey auction with package bids, given the bids found in the table, the numbers are also assigned as in in the non-package generalized Vickrey auction. A different allocation would emerge, for example, if Bidder A valued both numbers at 37. Then Bidder A would get both numbers. In this case, however, the payments required of the winning bidders change. As in the case of the non-package auction, the payments in the generalized Vickrey auction are equal to the opportunity cost (highest alternative value) of the items won by each bidder. However, as is the case in the table, this changes the opportunity cost of the bid. The payments required in the package auction are determined as follows:

If Number 2 is assigned to Bidder B instead of Bidder A, then Bidder B would realize a value of $25 (because Bidder B would have obtained both numbers). By assigning Number 2 to Bidder A, the (opportunity) cost for Bidder B is $9 ($25 minus $16, the value for Bidder B from obtaining Number 1). If Number 1 is assigned to Bidder A instead of Bidder B, then Bidder A would realize a value of $32. By assigning Number 1 to Bidder B, the (opportunity) cost for Bidder A is $12 ($32 minus $20). Thus, the outcome of the generalized Vickrey auction is as follows: Bidder A obtains Number 2, for which it pays $9. Bidder B obtains Number 1, for which it pays $12.

55. Further, in such auctions, by similar reasoning to that provided for the non-package auction, the bidders best strategy is to bid their valuations. Accordingly, the highest value can be realized by assigning Number 2 to Bidder A and Number 1 to Bidder B. In this case, that value is $36: $20 for Bidder A and $16 for Bidder B. If Number 1 is assigned to Bidder A, and Number 2 to Bidder B, then the value of the assignment is $18. If both numbers are assigned to Bidder A, the value of the assignment is $32. If both numbers are assigned to Bidder B, the value of the assignment is $25. The generalized Vickrey auction assigns the two numbers to maximize value. Accordingly, the generalized Vickrey auction assigns Number 2 to Bidder A and Number 1 to Bidder B. Thus, the generalized Vickrey auction with package bids is economically efficient allocating the numbers to maximize the value to bidders.

V. Initial Regulatory Flexibility Analysis

56. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking* (*Notice*). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *Notice.* The Commission will send a copy of the *Notice,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

57. In this *Notice,* we propose changes to, and seek comment on, our toll free number administration and assignment rules. While the Commission's current rule uses a first-come, first-served approach to the assignment of toll free numbers, to help ensure the continued usefulness and availability of this finite resource, we now examine alternative assignment methodologies. The objective of the proposed rules is to create a more efficient method of toll free number assignment that is consistent with our statutory mandate to make ''numbers available on an equitable basis.'' Specifically, we propose amending our rules to allow for use of an auction to assign certain toll free numbers—such as vanity and repeater numbers—in order to better promote the equitable and efficient, use of numbers. With the opportunity afforded by the opening of the 833 toll free code, we propose to use an auction for assigning numbers for which mutually exclusive interest has been expressed. We seek comment on repealing or relaxing the prohibition on number brokering, thereby allowing toll free number secondary markets, and consider a variety of other means to modernize toll free number assignments.

B. Legal Basis

58. The legal basis for any action that may be taken pursuant to this *Notice* is contained in sections 1, 4(i), 201(b), and 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), and 251(e)(1).

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

59. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. 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.

60. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data published in 2012 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

61. *Wired Telecommunications Carriers.* The U.S. Census Bureau

defines this industry as ''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 communications 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.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

62. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

63. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

64. *Competitive Local Exchange Carriers (Competitive LECs), 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. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

65. We have included small incumbent LECs in this present RFA analysis. As noted above, 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.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

66. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined above. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our proposed rules.

67. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

68. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not

operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

69. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the Second Further Notice.

70. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

71. *Wireless Telecommunications Carriers (except Satellite*). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

72. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

73. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

74. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

75. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

76. *Cable Companies and Systems (Rate Regulation).* The Commission has 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. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

77. *Cable System Operators (Telecom Act Standard).* The Communications Act 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.'' There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 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. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. 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. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, 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.

78. *All Other Telecommunications.* The ''All Other Telecommunications'' industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus a majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

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

79. The *Notice* proposes and seeks comment on rule changes that will affect toll free number assignment and administration. In particular, we propose expanding the existing toll free number assignment rule to permit use of an auction methodology, among other assignment mechanisms, to assign toll free numbers. To do so, we propose to revise section 52.111 of our rules to allow the Commission to assign numbers in a manner that is equitable, including by auction, on a first-come, first-served basis, an alternative assignment methodology, or by a combination of the forgoing as circumstances require. We also seek comment on conducting a sealed, single round, sealed-bid Vickrey auction for the roughly 17,000 numbers set aside, pursuant to the *833 Code Opening Order,* for which there were mutually exclusive requests. Auction procedure compliance will affect the toll free auction administrator and all RespOrgs, including those considered small entities, as described above.

80. In addition, we seek comment on revising our rules to promote development of a secondary market for toll free numbers. We seek comment on what types of information would be needed from the buyer and seller to document a reassignment, whether an online recording system is needed to record reassignments in the secondary market, and whether there should be a database for potential buyers. The *Notice* also seeks comment on whether the Toll Free Numbering Administrator (TFNA) should keep toll free number subscriber records and whether we should consider including subscriber information in a TFNA database.

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

81. The RFA requires an agency to describe any significant, specifically small business, 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 rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

82. This *Notice* invites comment on a number of proposals and alternatives to modify the present toll free number administration and assignment method rules. The *Notice* proposes expanding the existing toll free number assignment rule to permit use of an auction methodology, among other assignment mechanisms, to assign toll free numbers. To do so, we propose to revise section 52.111 of our rules to allow the Commission to assign numbers in a manner that is equitable, including by auction, on a first-come, first-served basis, an alternative assignment methodology, or by a combination of the forgoing as circumstances require. The *Notice* also seeks comment on types of auction methods that should be employed and on the advantages and disadvantages of these auction methods.

83. The Notice also seeks comment on repealing or relaxing the prohibition against brokering and open number distribution to secondary markets. Theses proposal could minimize burdens on current and future toll free subscribers, some of which may be small entities. Finally, in the *Notice,* we seek comment on whether certain desirable toll free numbers necessary to promote health and safety be set aside for use, without cost, by government (federal, state, local and Tribal) agencies as well as by non-profit health, safety, educational, or other non-profit public interest. We also seek comment on whether other entities such as non-profit educational and charitable organizations be included in this definition or receive similar treatment. These organizations could include small entities and such set asides would ensure that these organizations could receive certain numbers with minimal effort.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

84. None.

VI. Procedural Matters

A. Comment Filing Procedures

85. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document in Dockets WC 17–192, and CC 95–155. Comments may be filed using the Commission's Electronic Comment Filing System

(ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

▪ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/*.

▪ *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 9050 Junction Drive, Annapolis Junction, MD 20701.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

▪ *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

86. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 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.

B. Initial Regulatory Flexibility Analysis

87. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this Notice of Proposed Rulemaking. The text of the IRFA is set forth in section V above. 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 comment on the Notice of Proposed Rulemaking. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

C. Paperwork Reduction Act

88. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Contact Person

89. For further information about this proceeding, please contact E. Alex Espinoza, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C211, 445 12th Street SW., Washington, DC 20554, at (202) 418–0849 or *Alex.Espinoza@fcc.gov.*

VII. Ordering Clauses

90. Accordingly, *it is ordered,* pursuant to sections 1, 4(i), 201(b), and 251(e)(1) of the Communication Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), and 251(e)(1) that this Notice of Proposed Rulemaking *is adopted.*

91. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 52

Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 52 as follows:

PART 52—NUMBERING

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

Authority: Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332 unless otherwise noted.

■ 2. Section 52.111 is revised to read as follows:

§ 52.111 Toll free number assignment.

Toll free telephone numbers must be made available to Responsible Organizations and subscribers on an equitable basis. The Commission will assign toll free numbers by auction, on a first-come, first-served basis, by an alternative assignment methodology, or

by a combination of the foregoing options, as circumstances require.

[FR Doc. 2017–22187 Filed 10–12–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74, 76, 78

[MB Docket No. 17–231; FCC 17–121]

Amendment of the Commission's Rules Regarding Maintenance of Copies of FCC Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to eliminate rules that require certain broadcast and cable entities to maintain paper copies of Commission regulations.

DATES: Comments are due on or before November 13, 2017; reply comments are due on or before November 27, 2017.

ADDRESSES: You may submit comments, identified by MB Docket No. 17–231, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* 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.

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 FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Raelynn Remy of the Policy Division, Media Bureau at *Raelynn.Remy@fcc.gov,* or (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 17–121, adopted and released on September 26, 2017. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *https://ecfsapi.fcc.gov/file/0926156892954/FCC-17-121A1.pdf.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. 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).

Synopsis

1. We propose to eliminate the requirement, set forth in section 74.769 of our rules, that licensees or permittees of low power TV, TV translator, and TV booster stations maintain ''a current copy of Volume I and Volume III of the Commission's rules.'' [1] In addition, we propose to eliminate a similar requirement, codified in section 74.1269 of our rules, that licensees or permittees of FM translator and FM booster stations maintain ''a current copy of Volumes I (parts 0, 1, 2 and 17) and III (parts 73 and 74) of the Commission's rules.'' [2] The Commission adopted these requirements more than forty years ago as part of its regulation of then recently established broadcast translator services.[3] As NAB asserts, such obligations no longer appear necessary given the immediate availability of Commission rules online.[4] NAB maintains that ''[b]roadcasters can easily access and review the rules online, and download and print copies of any rules as needed.'' [5] We agree with NAB and tentatively conclude that the requirement to maintain paper copies of rules, which the publisher of the CFR updates annually, no longer remains necessary. We seek comment on this tentative conclusion.

2. We also tentatively conclude that we should eliminate the requirement, set forth in section 76.1714(a), that certain cable operators maintain a current copy of part 76 of the Commission's rules and, if subject to the Emergency Alert System (EAS) rules contained in part 11 of those rules, an EAS Operating Handbook.[6] Although we recognize the public safety importance of having the EAS Handbook in close proximity, we note that section 11.15 requires that a copy of the handbook ''be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions.'' [7] Given this separate requirement, we see no need for a duplicate EAS requirement in section 76.1714(a). We seek comment on this tentative conclusion. In addition, we tentatively conclude that we should eliminate from sections 76.1714(c) and 78.67 of the Commission's rules the requirement that CARS licensees maintain a current copy of part 78 of the Commission's rules and, in cases where aeronautical obstruction markings of antennas are required, part 17 of such rules.[8] The Commission adopted these requirements decades ago when it established a comprehensive regulatory framework to govern then-nascent cable television service.[9] Like the rules applicable to broadcasters discussed above, we believe these rules have outlived their usefulness and no longer serve the public interest because, as ACA notes, the Commission's rules are available online in the electronic CFR.[10] Thus, we tentatively conclude that these obligations are no longer necessary. We seek comment on this tentative conclusion.

3. Parties opposing elimination of any rules discussed in this NPRM should explain how the benefits derived from

[1] 47 CFR 74.769.

[2] 47 CFR 74.1269.

[3] *Amendment of Part 74 and Other Parts of the Commission's Rules and Regulations Pertaining to Television Broadcast Translator Stations,* Notice of Proposed Rulemaking, 27 FCC 2d 94, para. 1 (1971) (proposing to revise and harmonize rules governing FM and television translator stations). *See also id.* at 98, para. 12 (adopting section 74.769); *id.* at 101, Appendix, para. 8 (same); *Amendment of Part 74 of the Commission's Rules and Regulations to Permit the Operation of Low Power FM Broadcast Translator and Booster Stations,* Report and Order, 35 FR 15383, 15388 (1970) (adopting section 74.1269).

[4] NAB Comments at 23–24.

[5] *Id.* at 24.

[6] 47 CFR 76.1714(a). The requirements of section 76.1714(a) do not apply to any cable television system serving fewer than 1000 subscribers. 47 CFR 76.1714(b).

[7] 47 CFR 11.15.

[8] 47 CFR 76.1714(c), 78.67.

[9] *Amendment of Part 74, Subpart K, of the Commission's Rules and Regulations Relative to Community Antenna Television Systems,* Cable Television Report and Order, 36 FCC 2d 141, 242, Appendix A (1972) (adopting a requirement that cable television system operators maintain a copy of Part 76 of the Commission's rules). *See also id.* at 257, Appendix A (adopting section 78.67 of the Commission's rules).

[10] ACA Comments at 12.

such rules, if any, outweigh the costs.[11] We note that no party in the media modernization proceeding has asserted that any of these rules should be retained.

Initial Paperwork Reduction Act Analysis

4. This document does not contain proposed new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 through 3520). In addition, therefore, it does not contain any new or modified ''information burden for small business concerns with fewer than 25 employees'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

Ex Parte Rules

5. Permit-But-Disclose. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[12] 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.

Filing Requirements

6. Comments and Replies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *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.

7. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

8. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Additional Information

9. For additional information on this proceeding, contact Raelynn Remy of the Policy Division, Media Bureau, at *raelynn.remy@fcc.gov,* or (202) 418–2120.

Initial Regulatory Flexibility Act Analysis

10. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)[13] the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) concerning the possible significant economic impact on small entities by the rules proposed in this Notice of Proposed Rulemaking (NPRM). 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 provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[14] In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.[15]

A. Need for, and Objectives of, the Proposed Rules

11. The proposed rule changes stem from a Public Notice issued by the Commission in May 2017 launching an initiative to modernize the Commission's media regulations.[16] Two parties in the proceeding, the National Association of Broadcasters (NAB) and the American Cable Association (ACA), have argued for elimination of the recordkeeping requirements at issue as outdated and unnecessary. The NPRM proposes to eliminate provisions of the Commission's rules that obligate certain broadcasters and cable entities to maintain paper copies of Commission rules.

12. Specifically, the NPRM proposes to eliminate: (i) The requirement that licensees or permittees of low power TV, TV translator, and TV booster stations maintain a copy of Volume I and Volume III of the Commission's rules;[17] (ii) the requirement that licensees or permittees of FM translator

[11] We are not proposing to eliminate the provisions in sections 74.769, 74.1269, 76.1714, and 78.67 that obligate the subject broadcast and cable entities to be familiar with the rules governing their respective operations.

[12] 47 CFR 1.1200 *et seq.*

[13] 5 U.S.C. 603. The RFA, 5 U.S.C. 601 through 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).

[14] 5 U.S.C. 603(a).

[15] *Id.*

[16] *Commission Launches Modernization of Media Regulation Initiative,* MB Docket No. 17–105, Public Notice, FCC 17–58 (MB May 18, 2017) (initiating a review of rules applicable to media entities to eliminate or modify regulations that are outdated, unnecessary or unduly burdensome).

[17] 47 CFR 74.769.

and FM booster stations maintain a copy of Volumes I (parts 0, 1, 2 and 17) and III (parts 73 and 74) of the Commission's rules; [18] (iii) the requirement that certain cable operators maintain a copy of part 76 of the Commission's rules and, if subject to the Emergency Alert System (EAS) rules contained in part 11 of such rules, an EAS Operating Handbook; [19] and (iv) the requirements that cable television relay station (CARS) licensees maintain a copy of part 76 of the Commission's rules and, in cases where aeronautical obstruction markings of antennas are required, part 17 of such rules.[20] These proposals are intended to reduce outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

B. Legal Basis

13. The proposed action is authorized pursuant to sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 154(j).

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

14. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[21] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [22] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[23] 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.[24] The rules proposed herein will directly affect certain small television and radio broadcast stations, and cable entities. Below, we provide a list of such small entities.

- Television Broadcasting
- Radio Stations
- Cable Companies and Systems
- Cable System Operators
- Cable antenna relay service licensees

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

15. *Reporting Requirements.* The NPRM does not propose to adopt reporting requirements.

16. *Recordkeeping Requirements.* The NPRM does not propose to adopt recordkeeping requirements.

17. *Other Compliance Requirements.* The NPRM does not propose to adopt other compliance requirements.

18. Because no commenter provided information specifically quantifying the costs and administrative burdens of complying with the existing recordkeeping requirements, we cannot precisely estimate the impact on small entities of eliminating them. The proposed rule revisions, if adopted, will afford all affected Commission regulatees, including small entities, greater flexibility in the manner by which they access and stay familiar with Commission rules governing their services. No party in the proceeding has opposed the proposals set forth in the NPRM. We thus find it reasonable to conclude that the benefits of eliminating the rules at issue will outweigh any costs.

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

19. The RFA requires an agency to describe any significant, specifically small business, 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 such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

20. The NPRM proposes to eliminate the obligation, imposed on certain broadcasters and cable regulatees, to maintain paper copies of Commission rules. Eliminating these requirements is intended to modernize the Commission's regulations and reduce costs and recordkeeping burdens for affected entities, include small entities. Whereas under the current rules, affected entities must expend time and resources maintaining and updating hard copies of Commission rules, such entities will be able to maintain their familiarity with Commission rules by accessing those rules online. As noted, the proposed rule revisions are unopposed. Thus, we anticipate that affected small entities only stand to benefit from such revisions, if adopted.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

21. None.

22. We adopt this NPRM pursuant to the authority found in sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 154(j).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 74, 76 and 78 as follows:

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336, and 554.

■ 2. Section 74.769 is revised to read as follows:

§ 74.769 FCC Rules.

Each licensee or permittee of a station authorized under this subpart shall be familiar with rules relating to stations governed by this subpart.

■ 3. Section 74.787 is amended by revising paragraph (a)(5)(viii) introductory text and the table entry for § 74.769 to read as follows:

§ 74.787 Digital Licensing.

(a) * * *

(5) * * *

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

[18] 47 CFR 74.1269.

[19] 47 CFR 76.1714(a).

[20] 47 CFR 76.1714(c), 78.67. The NPRM also proposes to make conforming changes to sections 74.789, 74.787(a)(5)(viii) and 76.1700(d) if the Commission eliminates the specified requirements in sections 74.769 and 76.1714.

[21] 5 U.S.C. 603(b)(3).

[22] 5 U.S.C. 601(6).

[23] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 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**.'' 5 U.S.C. 601(3).

[24] 15 U.S.C. 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission's statistical account of television stations may be over-inclusive.

APPLICABLE RULE SECTIONS	
* * * * *	
§ 74.769	FCC Rules.
* * * * *	

* * * * *

§ 74.789 [Amended]

■ 4. Section 74.789 is amended by removing § 74.769 Copies of Rules and adding § 74.769 FCC Rules.

■ 5. Section 74.1269 is revised to read as follows:

§ 74.1269 FCC Rules.

Each licensee or permittee of a station authorized under this subpart shall be familiar with rules relating to stations governed by this subpart.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572 and 573.

■ 2. Section 76.1700 is amended by revising paragraph (d) to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

* * * * *

(d) Exceptions to the public inspection file requirements. The operator of every cable television system having fewer than 1,000 subscribers is exempt from the online public file and from the public record requirements contained in § 76.1701 (political file); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); § 76.1706 (signal leakage logs and repair records); § 76.1714 (FCC rules); and § 76.1715 (sponsorship identification).

* * * * *

■ 3. Section 76.1714 is amended by revising paragraphs (a) and (c) to read as follows:

§ 6.1714 FCC Rules.

(a) The operator of a cable television system is expected to be familiar with the rules governing cable television systems and, if subject to the Emergency Alert System (EAS) rules contained in part 11 of this chapter, the EAS.

* * * * *

(c) Both the licensee of a cable television relay station (CARS) and the operator or operators responsible for the proper operation of the station are expected to be familiar with the rules governing cable television relay stations.

PART 78—CABLE TELEVISION RELAY SERVICE

■ 1. The authority citation for part 78 continues to read as follows:

Authority: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

■ 2. Section 78.67 is revised to read as follows:

§ 78.67 FCC Rules.

Both the licensee of a cable television relay station (CARS) and the operator or operators responsible for the proper operation of the station are expected to be familiar with the rules governing CARS stations.

[FR Doc. 2017–22183 Filed 10–12–17; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 82, No. 197

Friday, October 13, 2017

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–LPS–17–0059]

Request for Extension of and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the U.S. Department of Agriculture (USDA) Agricultural Marketing Service's (AMS) intent to request approval from the Office of Management and Budget (OMB) for an extension of and revision to the currently approved information collection used in support of the Regulations Governing the Inspection of Eggs (as authorized by the Egg Products Inspection Act (EPIA)), which is commonly referred to as the Shell Egg Surveillance Program.

DATES: Comments must be received by December 12, 2017.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to Quality Assessment Division; Livestock, Poultry, and Seed Program; Agricultural Marketing Service, USDA; 1400 Independence Avenue SW., Room 3932–S, Stop 0258, Washington, DC 20250–0258; or by facsimile to (202) 690–2746. All comments should reference the docket number AMS–LPS–17–0059, the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Michelle Degenhart, Assistant to the Director, Quality Assessment Division; (202) 260–8417; or *michelle.degenhart@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations for the Inspection of Eggs (Egg Products Inspection Act).

OMB Number: 0581–0113.

Expiration Date of Approval: May 31, 2018.

Type of Request: Request for extension of and revision to a currently approved information collection.

Abstract: Congress enacted the EPIA (21 U.S.C. 1031–1056) to provide, in part, a mandatory inspection program to control the disposition of dirty and checked shell eggs; to control unwholesome, adulterated, and inedible shell eggs that are unfit for human consumption; and to control the movement and disposition of imported shell eggs.

The EPIA authorized USDA to issue regulations describing how this function would be carried out to ensure that only eggs fit for human consumption are used for such purposes. To this end, USDA published the EPIA, commonly referred to as the Shell Egg Surveillance Program, in 7 CFR part 57.

Under the Shell Egg Surveillance Program, shell egg handlers and hatcheries are required to register with USDA. A state or Federal surveillance inspector visits each registered handler quarterly to verify that shell eggs packed for consumer use are in compliance with the regulations (*e.g.,* restricted eggs are not used for human consumption, storage temperatures are maintained at 45 degrees ambient, etc.), that restricted eggs are being disposed of properly, and that adequate records are being maintained.

The information and recordkeeping requirements in this request are essential to carry out the intent of Congress, to administer the mandatory inspection program, and to take regulatory action, in accordance with the regulations and the EPIA. The forms within this collection package require the minimum information necessary to effectively carry out the requirements of the regulations, and their use is necessary to fulfill the intent of the EPIA.

The information collected is used only by authorized representatives of the AMS Livestock, Poultry, and Seed Program's Quality Assessment Division, which includes state agencies authorized to conduct inspections on AMS's behalf. The information is only used to verify compliance with the EPIA and the regulations, and it is used to facilitate regulatory action. The Agency is the primary user of the information; secondary users include each authorized state agency that have a cooperative agreement with AMS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .30 hours per response.

Respondents: Businesses or other for-profits, and small businesses or organizations.

Estimated Number of Respondents: 805.

Estimated Number of Responses per Respondent: 8.

Estimated Total Annual Responses: 6,434.50.

Estimated Total Annual Burden on Respondents: 1,942.28 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All responses will become a matter of public record, including any personal information provided.

Dated: October 10, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–22221 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–DA–17–0062]

Revision of a Currently Approved Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for a revision of a currently approved collection for the Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping (Subpart B).

DATES: Comments received by December 12, 2017 will be considered.

Additional Information or Comments: Contact Camia Lane, Dairy Grading and Standardization Division, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2968—South Building, 1400 Independence Avenue SW., Washington, DC 20250–0230; Telephone: 202–720–1671, Fax: 202–720–2643, *Camia.Lane@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Record Keeping (Subpart B).

OMB Number: 0581–0110.

Expiration Date of Approval: April 30, 2018.

Type of Request: Revision of a currently approved collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) directs the Department to develop programs which will provide for and facilitate the marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products (7 CFR part 58).

Dairy products are graded according to U.S. grade standards by a USDA grader. Dairy processors, buyers, retailers, institutional users, and consumers have requested that such a program be developed to assure the uniform quality of dairy products purchased. In order for any service program to perform satisfactorily, there are regulations for the provider and user. For these reasons, the dairy inspection and grading program regulations were developed and issued under the authority of the AMA. These regulations are essential to administer the program to meet the needs of the user and to carry out the purposes of the AMA.

The information collection requirements in this request are essential to carry out the intent of the AMA to ensure that dairy products are produced under sanitary conditions and buyers are purchasing a quality product. In order for the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service to serve the government, industry, and the consumer, laboratory test results must be recorded.

Respondents are not required to submit information to the agency. The records are to be evaluated by a USDA inspector at the time of an inspection. These records include quality tests of each producer, plant records of required tests and analysis, and starter and cheese make records. As an offsetting benefit, the records required by USDA are also records that are routinely used by the inspected facility for their own supervisory and quality control purposes.

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 2.73 hours per response.

Respondents: Dairy products manufacturing facilities.

Estimated Number of Respondents: 369.

Estimated Number of Responses: 369.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1007.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Dated: October 6, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–22134 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0078]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Fresh Blueberry Fruit From Morocco Into the Continental United States

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of fresh blueberry fruit from Morocco into the continental United States.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0078.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0078, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0078* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations related to the importation of fresh blueberries from Morocco into the continental United States, contact Ms. Dorothy Wayson, Senior Regulatory Specialist,

Plant Health Programs, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1236; (301) 851–2036. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Fresh Blueberry Fruit from Morocco Into the Continental United States.

OMB Control Number: 0579–0421.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service regulates the importation of fruits and vegetables into the United States from certain parts of the world as provided in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–80).

In accordance with § 319.56–69, blueberries from Morocco may be imported into the continental United States under certain conditions to prevent the introduction of plant pests into the United States. These conditions require the use of certain information collection activities, including application for permits to import plants and plant products, appeal of denial or revocation of permit, emergency action notification, notice of arrival, registration of production sites, inspections of crops, and remedial actions by production sites. Also, each consignment of blueberries must be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Morocco with an additional declaration stating that the provisions of § 319.56–69 have been met, and that the consignment was inspected prior to export and found free of *Monilinia fructigena.* These actions allow the importation of blueberries from Morocco while continuing to protect the United States against the introduction of plant pests.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.63 hours per response.

Respondents: Growers and importers of blueberry fruit from Morocco and the NPPO of Morocco.

Estimated annual number of respondents: 15.

Estimated annual number of responses per respondent: 9.

Estimated annual number of responses: 130.

Estimated total annual burden on respondents: 82 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 6th day of October 2017 .

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22225 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0079]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Pine Shoot Beetle Host Material From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of pine nursery stock and various pine products from Canada to prevent the spread of pine shoot beetle into noninfested areas of the United States.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0079.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0079, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0079* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of pine shoot beetle host material from Canada, contact Mr. Tyrone Jones, Trade Director, PHP, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737; (301) 851–2128. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Pine Shoot Beetle Host Material From Canada.

OMB Control Number: 0579–0257.

Type of request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and

other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.

As authorized by the PPA, the Animal and Plant Health Inspection Service (APHIS) regulates the importation of plants for planting into the United States from certain parts of the world as provided in ''Subpart—Plants for Planting'' (7 CFR 319.37 through 319.37–14). This subpart restricts, among other things, the importation of living plants, plant parts, and seeds for propagation. In addition, APHIS regulates the importation of lumber and other wood articles as provided in ''Subpart—Logs, Lumber, and Other Wood Articles'' (7 CFR 319.40–1 through 319.40–11). This subpart lists requirements for the importation of various logs, lumber, and other unmanufactured wood products into the United States. Both subparts contain regulations that help prevent the introduction and spread of pine shoot beetle (*Tomicus piniperda*), a pest of pine trees, into noninfested areas of the United States and contain several information collection requirements including phytosanitary certificates with an additional declaration, statements of origin and movement, compliance agreements, and processes of appeal.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.04 hours per response.

Respondents: Christmas tree industry, nursery industry, and foreign government.

Estimated annual number of respondents: 20.

Estimated annual number of responses per respondent: 120.

Estimated annual number of responses: 2,402.

Estimated total annual burden on respondents: 94 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 6th day of October 2017 .

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22224 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0082]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Mangoes From Jamaica Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of mangoes from Jamaica into the continental United States.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0082.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0082, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0082* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of mangoes from Jamaica, contact Mr. Tony Roman, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2242. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Mangoes From Jamaica Into the Continental United States.

OMB Control Number: 0579–0419.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service regulates the importation of fruits and vegetables into the United States from certain parts of the world as provided in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–80).

In accordance with § 319.56–71, mangoes may be imported from Jamaica into the continental United States under certain conditions to prevent the introduction of plant pests into the United States. As a condition of entry, mangoes have to be produced in accordance with a systems approach employing a combination of mitigation measures for the pests listed in § 319.56–71 and be inspected prior to export from Jamaica and found free of these pests and diseases. Mangoes must be accompanied by a phytosanitary certificate with an additional declaration that the conditions for importation have been met. These regulations also require the use of

certain information collection activities that include operational workplans, production site registrations, pest detection investigations and reinstatement, heat treatment facility certifications, heat treatment monitoring and inspections, trust fund agreements, inspections, and emergency action notifications.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1 hour per response.

Respondents: Facilities, production sites, importers, and the national plant protection organization of Jamaica.

Estimated annual number of respondents: 5.

Estimated annual number of responses per respondent: 80.

Estimated annual number of responses: 398.

Estimated total annual burden on respondents: 427 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 6th day of October 2017 .

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22222 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0080]

Notice of Request for Extension of Approval of an Information Collection; Black Stem Rust; Identification Requirements for Addition of Rust-Resistant Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the black stem rust quarantine and regulations.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0080.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2017-0080, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0080* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the black stem rust quarantine and regulations, contact Dr. Richard N. Johnson, National Policy Manager, PHP, PPQ, APHIS, 4700 River Road, Unit 26, Riverdale, MD 20737; (301) 851–2109. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Black Stem Rust; Identification Requirements for Addition of Rust-Resistant Varieties.

OMB Control Number: 0579–0186.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis, Mahoberberis,* and *Mahonia.* The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations, contained in 7 CFR 301.38 through 301.38–8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia and govern the interstate movement of certain plants of the genera *Berberis, Mahoberberis,* and *Mahonia,* known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of rust; rust-susceptible plants do pose such risks.

Paragraph (b) of § 301.38–2 provides the requirements for the submission of a request to the Animal and Plant Health Inspection Service to add a variety to the list of rust-resistant barberry varieties in the regulations. A request must include a description of the variety, including a written description and color pictures that can be used by an inspector to clearly identify the variety and distinguish it from other varieties. This requirement helps to ensure that State plant inspectors can clearly determine whether plants moving into or through their States are rust-resistant varieties listed in 7 CFR 301.38–2.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our

information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 4 hours per response.

Respondents: Nurseries.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 8.

Estimated total annual burden on respondents: 32 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 11th day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22346 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0081]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Karnal Bunt; Importation of Wheat and Related Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of wheat and related articles from regions affected with Karnal bunt.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0081.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0081, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0081* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on Karnal bunt and the importation of wheat and related articles, contact Mr. George Galasso, National Trade Director, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737; (301) 851–2050. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Karnal Bunt; Importation of Wheat and Related Articles.

OMB Control Number: 0579–0240.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized, among other things, to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, biological control organism, noxious weeds, means of conveyances, and other articles to prevent the introduction of plant pests or noxious weeds into the United States or their dissemination within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkhur and is spread by spores, primarily through movement of infected seed.

To prevent the introduction and spread of various wheat diseases, including Karnal bunt, APHIS' regulations in ''Subpart—Wheat Diseases'' (7 CFR 319.59–1 through 319.59–4) prohibit the importation of wheat seed, plants, straw, and other products into the United States from regions affected with Karnal bunt.

The regulations require that certain regulated articles imported from Karnal bunt-free areas within regions regulated for Karnal bunt be accompanied by a phytosanitary certificate that must be completed by an official of the national plant protection organization (NPPO) of the region of origin. The certificate must include a declaration stating that the regulated articles originated in areas where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores. In addition, there are other information collection activities including notices of arrival, disinfection documents, and emergency action notice.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.8 hours per response.

Respondents: Importers/exporters of wheat and related articles and the NPPO of the region of origin.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 56.

Estimated annual number of responses: 224.

Estimated total annual burden on respondents: 186 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 6th day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22223 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0077]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Gypsy Moth Identification Worksheet and Checklist

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the gypsy moth program.

DATES: We will consider all comments that we receive on or before December 12, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0077.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0077, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0077* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the gypsy moth program, contact Mr. Paul Chaloux, National Policy Manager, PHP, PPQ, APHIS, 4700 River Road, Unit 137, Riverdale, MD 20737; (301) 851–2064. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Gypsy Moth Identification Worksheet and Checklist.

OMB Control Number: 0579–0104.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the U.S. Department of Agriculture (USDA), either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not widely distributed throughout the United States. The USDA's Animal and Plant Health Inspection Service (APHIS) is the delegated authority to carry out this mission.

As part of the mission, APHIS' Plant Protection and Quarantine (PPQ) program engages in detection surveys to monitor for the presence of, among other things, the European gypsy moth and the Asian gypsy moth. The European gypsy moth is one of the most destructive pests of fruit and ornamental trees as well as hardwood forests. First introduced into the United States in Medford, MA, in 1869, the European gypsy moth has gradually spread to infest the entire northeastern portion of the country. The gypsy moth regulations can be found in 7 CFR 301.45 through 301.45–12.

Heavily infested European gypsy moth areas are inundated with actively crawling larvae that cover trees, fences, vehicles, and houses during their search for food. Entire areas may be stripped of all foliage, often resulting in heavy damage to trees. The damage can have long-lasting effects, depriving wildlife of food and shelter, and severely limiting the recreational value of forested areas.

The Asian gypsy moth is an exotic strain of gypsy moth that is closely related to the European variety already established in the United States. While the Asian gypsy moth has been introduced into the United States on several occasions, it is currently not established in the United States. However, due to behavioral differences, the Asian gypsy moth is considered to pose an even greater threat to trees and forested areas than the European gypsy moth.

Unlike the flightless European gypsy moth female adult, the Asian gypsy moth female adult is capable of strong directed flight between mating and egg deposition, significantly increasing its ability to spread over a much greater area and become widely established within a short time. In addition, Asian gypsy moth larvae feed on a much wider variety of hosts, allowing them to exploit more areas and cause more damage than the European gypsy moth.

To determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, APHIS sets traps in high-risk areas to collect specimens. Once an infestation is identified, control and eradication work (usually involving State cooperation) is initiated to eliminate the moths.

APHIS personnel, with assistance from State/local officials, check traps for the presence of gypsy moths. If a suspicious moth is found in the trap, it is sent to APHIS laboratories at the Otis Methods Development Center in Massachusetts so that it can be correctly identified through DNA analysis. DNA analysis is the only way to accurately identify these insects because the European gypsy moth and the Asian gypsy moth are strains of the same species, and they cannot be visually distinguished from each other.

The PPQ or State/local officials submitting the moth for analysis must complete a specimen worksheet, which accompanies the insect to the laboratory. The worksheet enables Federal and State/local officials to identify and track specific specimens through the DNA identification tests that are conducted. In addition, the information provided by the gypsy moth identification worksheets is vital to APHIS' ability to monitor, detect, and eradicate gypsy moth infestations.

The gypsy moth regulations (§ 301.45–4(a)) also require the

inspection of outdoor household articles that are to be moved from a gypsy moth quarantined area to a non-quarantined area to ensure that they are free of all life stages of gypsy moth. Individuals may use a self-inspection checklist, ''It's the Law; Before Moving, Check For Gypsy Moth.'' The completed checklist must be signed by the person who performed the inspection and must be kept in the vehicle used to move the outdoor household articles in the event that USDA or State/local officials request it during the movement of the articles. In addition, it is recommended that individuals maintain a copy of the signed checklist for at least 5 years.

We are asking the Office of Management and Budget (OMB) to approve these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.54 hours per response.

Respondents: Individuals who complete the self-inspection checklist and State and local officials.

Estimated annual number of respondents: 2,500,020.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 5,000,260.

Estimated total annual burden on respondents: 2,707,565 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 11th day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22348 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0025]

Availability of a Final Environmental Assessment and Finding of No Significant Impact for a Release of Three Parasitoids for Biological Control of the Lily Leaf Beetle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the release of three parasitoids, *Diaparsis jucunda, Lemophagus errabundus,* and *Tetrastichus setifer,* for the biological control of the lily leaf beetle in the contiguous United States. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2237, email: *Colin.D.Stewart@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The lily leaf beetle, *Lilioceris lilii* (Coleptera:Chrysomelidae), an aggressive pest of lilies and fritillaries, has expanded its range rapidly over the past decade, and is now found in several northeastern and central States, across Canada, and in Washington State. Further expansion is expected based on its historical distribution in nearly all of Europe and parts of North Africa. The Washington State Department of Agriculture is proposing to release three insect parasitoid species for the biological control of the lily leaf beetle; none of these species have been previously released or established in Washington State. The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the field release of the parasitoids *Diaparsis jucunda, Lemophagus errabundus,* and *Tetrastichus setifer* into the contiguous United States to reduce the severity of lily leaf beetle infestations.

On July 13, 2017, we published in the **Federal Register** (82 FR 32317–32318, Docket No. APHIS–2017–0025) a notice [1] in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental impacts associated with the proposed release of these biological control agents into the contiguous United States.

We solicited comments on the EA for 30 days ending August 14, 2017. We received one comment by that date. The commenter was opposed to the release of the organism on principle, but did not raise any specific or substantive issues.

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding the release of *Diaparsis jucunda, Lemophagus errabundus,* and *Tetrastichus setifer* into the contiguous United States for the biological control of the lily leaf beetle. The finding, which is based on the EA, reflects our determination that release of these biological control agents will not have a significant impact on the quality of the human environment.

The EA and FONSI may be viewed on the *Regulations.gov* Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

[1] To view the notice, environmental assessment, finding of no significant impact, and the comment we received, go to *https://www.regulations.gov/docket?D=APHIS-2017-0025.*

Done in Washington, DC, this 6th day of October 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–22228 Filed 10–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, *Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.*

DATES: Comments must be received in writing on or before December 12, 2017 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Director, Forest Management, Mail Stop 1103, Forest Service, USDA, 1400 Independence Avenue SW., Washington, DC 20250.

Comments also may be submitted via facsimile to (703) 605–1575, or by email to *wosbaprocess@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at Forest Service, USDA, Forest Management Office, Third Floor SW Wing, 201 14th Street SW., Washington DC, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1766 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *wosbaprocess@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Sharon Nygaard-Scott, Forest Management Staff, by phone (202) 205–1766 or by email at *wosbaprocess@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.

OMB Number: 0596–0141.

Expiration Date of Approval: 4/30/2018.

Type of Request: Extension without change of a currently approved information collection.

Abstract: The Forest Service adopted the Small Business Timber Sale Set-Aside Program (Set-Aside Program) on July 26, 1990 (55 FR 30485). The Agency administers the Set-Aside Program in cooperation with the Small Business Administration (SBA) under the authorities of the Small Business Act (15 U.S.C. 631), the National Forest Management Act of 1976, and SBA regulations in 13 CFR part 121. The Set-Aside Program is designed to ensure that small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Under the Set-Aside Program, the Forest Service must recompute the shares of timber sales to be set aside for qualifying small businesses every 5 years based on the actual volume of sawtimber that has been purchased by small businesses. Additionally, shares must be recomputed if there is a change in manufacturing capability, if the purchaser size class changes, or if certain purchasers discontinue operations.

In 1992, the Agency adopted new administrative appeal procedures (36 CFR part 215), which excluded the Set-Aside Program. Prior to adoption of 36 CFR part 215, the Agency had accepted appeals of recomputation decisions under 36 CFR part 217; and therefore decided to establish procedures for providing notice to affected purchasers offering an opportunity to comment on the recomputation of shares (61 FR 7468). The Conference Report accompanying the 1997 Omnibus Appropriation Act (Pub. L. 104–208) directed the Forest Service to reinstate an appeals process for decisions concerning recomputation of Small Business Set-Aside shares, structural recomputations of SBA shares, or changes in policies impacting the Set-Aside Program prior to December 31, 1996. The Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares (36 CFR 223.118; 64 FR 411, January 5, 1999) outlines the types of decisions that are subject to appeal, who may appeal decisions, the procedures for appeal decisions, the timelines for appeal, and the contents of the notice of appeal.

The Forest Service provides qualifying timber sale purchasers 30-days for predecisional review and comment on draft decisions to reallocate shares, including the data used in making the proposed recomputation decision. Within 15 days after the close of the 30-day predecisional review period, an Agency official makes a decision on the shares to be set aside for small businesses and gives written notice of the decision to all parties on the national forest timber sale bidders list for the affected area. The written notice provides the date by which the appeal may be filed and how to obtain information on appeal procedures.

Only those timber sale purchasers, or their representatives, who are affected by small business share timber sale set-aside recomputation decisions and who have submitted predecisional comments, may appeal recomputation decisions. The appellant must file a notice of appeal with the appropriate Forest Service official within 20 days of the date on the notice of decision. The notice of appeal must include:

1. The appellant's name, mailing address, and daytime telephone number;

2. The title or type of recomputation decision involved and date of the decision;

3. The name of the responsible Forest Service official;

4. A brief description and date of the decision being appealed;

5. A statement of how the appellant is adversely affected by the decision being appealed;

6. A statement of facts in dispute regarding the issue(s) raised by the appeal;

7. Specific references to law, regulation, or policy that the appellant believes have been violated (if any) and the basis for such an allegation;

8. A statement as to whether and how the appellant has tried to resolve the appeal issues with the responsible Forest Service official, including evidence of submission of written comments at the predecisional stage; and

9. A statement of the relief the appellant seeks.

The data gathered in this information collection is not available from other sources.

Estimate of Annual Burden: 9 hours.

Type of Respondents: Timber sale purchasers, or their representatives, who are affected by recomputations of the small business share of timber sales.

Estimated Annual Number of Respondents: 40.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 720 hours..

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: September 22, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–22154 Filed 10–12–17; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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 that the Tennessee (State) Advisory Committee will hold a meeting on Wednesday, November 8, 2017 to continue the review and discussion of the hearing transcript on civil asset forfeiture.

DATES: The meeting will be held on Wednesday, November 8, 2017, 12:30 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 877–440–5788, conference ID: 6324926.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov* or (404) 562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: (877) 440–5788, conference ID: 6324926. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1 (800) 977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by November 3, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Call to Order
- Diane DiIanni, Tennessee SAC Chairman
- Jeff Hinton, Regional Director

Regional Update—Jeff Hinton

New Business: Continuation of the review and discussion of the hearing transcript on civil asset forfeiture Diane DiIanni, Tennessee SAC Chairman/Staff/Advisory Committee

Public Participation

Adjournment

Dated: October 6, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–22162 Filed 10–12–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2040]

Approval of Expansion of Subzone 124D; LOOP LLC; Lafourche and St. James Parishes, Louisiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Port of South Louisiana, grantee of Foreign-Trade Zone 124, has made application to the Board to expand Subzone 124D—Site 2 on behalf of LOOP LLC to include an adjacent 70.761 acres in St. James, Louisiana (FTZ Docket B–30–2017, docketed May 8, 2017);

Whereas, notice inviting public comment has been given in the **Federal Register** (82 FR 25238, June 1, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone 124D on behalf of LOOP LLC as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: October 6, 2017.

Gary Taverman,

Deputy Assistant Secretary for AD/CVD Operations performing the duties of the Assistant Secretary for Enforcement & Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2017–22204 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on October 25, 2017, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session:

1. Welcome and Introductions
2. Remarks from the Bureau of Industry and Security Management
3. Industry Presentations
4. New Business

Closed Session:

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than October 18, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 30, 2017 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–22194 Filed 10–12–17; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on October 24, 2017, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session:

1. Opening remarks and introductions
2. Presentation of papers and comments by the Public
3. Discussions on results from last, and proposals from last Wassenaar meeting
4. Report on proposed and recently issued changes to the Export Administration Regulations
5. Other business

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than October 17, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–22193 Filed 10–12–17; 8:45 am]

BILLING CODE 4310–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–859]

100- to 150-Seat Large Civil Aircraft from Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that 100- to 150-seat large civil aircraft (aircraft) from Canada is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

DATES: Applicable October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Drew Jackson or Lilit Astvatsatrian, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4406 or (202) 482–6412, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended

(the Act). The Department published the notice of initiation of this investigation on May 26, 2017.[1] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is aircraft from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[3] in the *Initiation Notice,* the Department set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[4] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all scope comments timely received, *see* the Scope Comments Decision Memorandum for the Preliminary Determination.[5] The Department is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Adverse Facts Available

Bombardier Inc. (Bombardier) is the sole mandatory respondent in this investigation, and failed to provide information requested in the Department's questionnaire. Accordingly, we preliminarily determine to base Bombardier's dumping margin on adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. As AFA, we applied the highest dumping margin calculated for Canadian exports of subject merchandise contained in the Petition, which is 79.82 percent.[6] For further discussion, *see* the Preliminary Decision Memorandum.[7]

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, the Department has preliminarily relied upon facts otherwise available with adverse inferences for Bombardier. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination the Department shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all-other producers or exporters.

The Department has preliminarily determined the estimated weighted-average dumping margin for the individually examined respondent entirely under section 776 of the Act. Consequently, pursuant to section 735(c)(5)(B) of the Act, the Department's normal practice under these circumstances has been to calculate the ''all-others''' rate as a simple average of the alleged dumping margins from the Petition.[8] The Petition for this investigation included a single alleged dumping margin. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(B) of the Act, we are using the alleged dumping margin in the Petition as the estimated weighted-average dumping margin assigned to all other producers and exporters of subject merchandise. For a full description of the methodology underlying the Department's analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

[1] *See 100- to 150-Seat Large Civil Aircraft From Canada: Initiation of Less-Than-Fair-Value Investigation,* 82 FR 24296 (May 26, 2017) (*Initiation Notice*).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less Than Fair Value Investigation of 100- To 150-Seat Large Civil Aircraft from Canada,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Initiation Notice.*

[5] *See* Memorandum, ''100- To 150-Seat Large Civil Aircraft from Canada: Scope Comments Decision Memorandum for the Preliminary Determination'' (Preliminary Scope Decision Memorandum), dated concurrently with this preliminary determination.

[6] *See* Letter to the Honorable Wilbur L. Ross, Jr., Secretary of Commerce, from the petitioner, concerning, ''Petitions for the Imposition of Antidumping and Countervailing Duties On 100- To 150-Seat Large Civil Aircraft from Canada,'' dated April 27, 2017 (the Petition); *see also* Letter to the Honorable Wilbur L. Ross, Jr., Secretary of Commerce from the petitioner, concerning, ''100-To 150-Seat Large Civil Aircraft from Canada—Petitioner's Response to AD Supplemental Questionnaire,'' dated May 2, 2017'' (May 4, 2017) (Petition Supplement).

[7] *See also* memorandum, ''Application of Adverse Facts Available to Bombardier Inc.,'' dated October 4, 2017.

[8] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan,* 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances,* 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances,* 79 FR 14476, 14477 (March 14, 2014).

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Bombardier, Inc	79.82	Not Applicable.
All-Others	79.82	Not Applicable.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not the respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

The Department normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. However, because the Department has not made a preliminary affirmative determination for countervailable export subsidies in the companion CVD proceeding, the Department has not adjusted the estimated weighted-average dumping margin to offset countervailable export subsidies.

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because the Department preliminarily applied total AFA to the individually examined company, Bombardier, in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, there are no calculations to disclose.

Verification

Because the examined respondent in this investigation did not provide information requested by the Department, and the Department preliminarily determines the examined respondent to have been uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 21 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that the Department will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, the Department intends to make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 4, 2017.

Carole Showers,

Executive Director, Office of Policy performing the duties of the Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aircraft, regardless of seating configuration, that have a standard 100- to 150-seat two-class seating capacity and a minimum 2,900 nautical mile range, as these terms are defined below.

''Standard 100- to 150-seat two-class seating capacity'' refers to the capacity to accommodate 100 to 150 passengers, when eight passenger seats are configured for a 36-inch pitch, and the remaining passenger seats are configured for a 32-inch pitch. ''Pitch'' is the distance between a point on one seat and the same point on the seat in front of it.

''Standard 100- to 150-seat two-class seating capacity'' does not delineate the number of seats actually in a subject aircraft or the actual seating configuration of a subject aircraft. Thus, the number of seats actually in a subject aircraft may be below 100 or exceed 150.

A ''minimum 2,900 nautical mile range'' means:

(i) Able to transport between 100 and 150 passengers and their luggage on routes equal to or longer than 2,900 nautical miles; or

(ii) covered by a U.S. Federal Aviation Administration (FAA) type certificate or supplemental type certificate that also covers other aircraft with a minimum 2,900 nautical mile range.

The scope includes all aircraft covered by the description above, regardless of whether they enter the United States fully or partially assembled, and regardless of whether, at the time of entry into the United States, they are approved for use by the FAA.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8802.40.0040. The merchandise may alternatively be classifiable under HTSUS subheading 8802.40.0090. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. Scope Comments
VI. Application of Facts Available and Use of Adverse Inference
  A. Application of Facts Available
  B. Use of Adverse Inference
  C. Preliminary Estimated Weighted-Average Dumping Margin Based on Adverse Facts Available
  D. Corroboration of the AFA Rate
VII. Conclusion

[FR Doc. 2017–22203 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

XRIN 0648–XF547

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Haines Ferry Terminal Modification Project

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

ACTION: Proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the Alaska Department of Transportation and Public Facilities (ADOT&PF) for authorization to take marine mammals incidental to the Haines Ferry Terminal Modification Project in Haines, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than November 13, 2017.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Daly@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO)

216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On January 9, 2017, NMFS received a request from ADOT&PF for an IHA to take marine mammals incidental to conducting improvements at the Haines Ferry Terminal. On February 3, 2017, NMFS requested additional information and ADOT&PF submitted a revised application on March 27, 2017, which NMFS deemed adequate and complete. However, after further discussions, ADOT&PF submitted a final application on May 30, 2017, and then subsequently sent a request on August 17, 2017, to change the effective dates in the application to accommodate a delayed construction schedule. ADOT&PF's request is for harassment only and NMFS concurs that serious injury or mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

ADOT&PF's request is for take of humpback whale (*Megaptera novaeangliae*), harbor seals (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoenoides dalli*) by Level A and Level B harassment, and an additional two species, Steller sea lion (*Eumetopias jubatus*) and killer whale (*Orcinus orca*) by Level B harassment only. Pile driving would occur for 19 days and pile removal would take 2 additional days (total of 21 days) over the course of 4 months from October 1, 2018, through September 30, 2019, but excluding March 1 through May 31, 2019. No subsequent IHA would be necessary to complete the project.

Description of Proposed Activity

Overview

ADOT&PF is proposing to construct two new berths and associated infrastructure adjacent at the existing Haines Ferry Terminal (see Attachment 1 in ADOT&PF's application for project drawings). The project includes impact and vibratory pile driving and vibratory pile removal. Sounds resulting from pile driving and removal may result in the incidental take of marine mammals by Level A and Level B harassment up to approximately 4.78 and 21.1 square kilometers (km^2), respectively, around the terminal. The terminal is located in southeast Alaska in Lutak Inlet.

Dates and Duration

The IHA would be valid from October 1, 2018, through September 30, 2019; however, pile driving and removal would occur for only 21 days over the course of four months during this time period and work would not occur from March 1 through May 31, 2019. ADOT&PF anticipates up to 1 hour of vibratory pile driving and 15 to 30 minutes of impact pile driving per day.

Specified Geographic Region

The northern part of Lynn Canal braids into several inlets including Chilkat, Chilkoot, Taiya and Lutak Inlets. Tanani Point marks the confluence of Lutak Inlet and Chilkoot Inlet and is located approximately one mile (mi) southeast of the terminal. The Terminal is located near the mouth of Lutak Inlet, approximately four miles north of the town of Haines, in northern Southeast Alaska at 59°16′54″ N., 135°27′44.6″ W. (see Figures 1–1 and 1–2 in ADOT's application). At the terminal where pile driving may occur, Lutak Inlet is approximately 1.3 miles (mi) wide and water depth ranges from 20–40 feet (ft; 6–9 meters (m)); however, water depth in Lynn Canal reaches over 300 ft (91 m). Lutak Inlet is a glacial scoured fiord, characterized by a typical U-shaped glacial valley. The sediment is homogeneous, consisting of dark gray, silty gravel material, as well as cobbles and boulders. Other than the terminal, the region is not industrialized and is surrounded by several state parks and the Glacier Bay National Park and Preserve.

Detailed Description of Specific Activities

The Terminal is a multi-use dock used by Alaska Marine Highway Systems (AMHS) mainline and fast ferries, Alaska Marine Lines (AML) (tug and barge), and Delta Western (tug and barge). It is the second busiest AMHS port of call and can see up to four ferries coming and going during any given day in summer. The AMHS provides a transportation link for Alaska residents and businesses, as well as for non-residents visiting the state.

The Haines Ferry Terminal Modification Project involves constructing an AMHS End Berth Facility adjacent to the existing dock. The expansion is necessary because the current configuration does not allow for operation of the new Alaska Class vessels, which are expected to be operational in 2018. Specifically, modification work includes removing an existing structure and installing moorings, vehicle transfer float, float restraint structures, steel transfer bridges and associated abutment and bearing structure, berthing structures, catwalks and gangways, and a pile-supported passenger waiting shelter. The structure to be removed with a vibratory hammer is comprised of four 30-inch (in) cylindrical steel pipe piles. To construct the new infrastructure, ADOT&PF would install 37 new piles. Fifteen piles would be 36-in diameter with 1 in. wall thickness. The remaining 22 piles would be 30-in diameter and ¾ in thick. To minimize noise propagation, the steel piles would be driven with a vibratory hammer, as practicable, except for final proofing, which would require use of an impact hammer. Based on previous pile driving work at the Terminal in 2015, ADOT&PF anticipates each pile would require up 45 to 60 minutes of vibratory driving (to account for proper placement and alignment of the pile) followed by an average of 700 strikes of the impact hammer for a total average installation time of 60–90 minutes. One pile driver would be used onsite; therefore, only one pile would be installed at a time. A construction barge may be used during the project to facilitate pile driving and removal; however, the barge would be anchored.

All pile driving and removal would occur within 500 feet (152 meters) of the shoreline. Assuming two 30 in diameter piles could be removed each day, pile removal would take two days. Pile driving the 30-in piles is expected to take 11 days while an additional 8 days would be necessary to install the 36-in piles. In total, ADOT&PF would be elevating noise levels around the project area for 21 days (two days of pile removal plus 19 days of pile driving) of the 4 month construction window (four months from October 1, 2018, through September 30, 2019, excluding March 1, 2019 through May, 31 2019).

Other work for the project includes using a clamshell bucket dredge to

remove sediment around the terminal. However, dredging is not anticipated to result in the taking of marine mammals; therefore, this activity will not be discussed further.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see the *Proposed Mitigation* and *Proposed Monitoring and Reporting* sections).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*), and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 1 lists all species with expected potential for occurrence in Lynn Canal and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto *et al.* 2017). All values presented in Table 1 are the most recent available at the time of publication and are available in the draft 2016 SARs (available online at: *www.nmfs.noaa.gov/pr/sars/draft.htm*).

Three cetacean species have ranges near the terminal but are unlikely to occur in the project area: The Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), gray whale (*Eschrichtius robustus*), and minke whale (*Balaenopera acutorostrata*). The range of Pacific white-sided dolphin is suggested to overlap with Lynn Canal (Angliss and Allen, 2015), but no sightings have been documented in the project area (Dahlheim *et al.* 2009, MOS 2016). Gray whale sightings in this northern portion of Southeast Alaska are very rare; there have only been eight sightings since 1997 (MOS 2016). These observations were made in the lower portions of Lynn Canal and were not close to the Lutak Inlet/upper Lynn Canal area. Finally, only one minke whale has been observed in Taiya Inlet over the past five years (MOS 2016).

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT WITHIN UPPER LYNN CANAL DURING THE SPECIFIED ACTIVITY

Common name	Scientific name	MMPA Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae						
Humpback whale	*Megaptera novaeangliae.*	Central North Pacific	E, D,Y	10,103 (0.3, 7,890, 2006).	83	24
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Killer whale	*Orcinus orca*	Alaska Resident	-, N	2,347 (N/A, 2,347, 2012) [4].	24	1
		Northern Resident	-, N	261 (N/A, 261, 2011) [4]	1.96	0
		Gulf of Alaska, Aleutian Islands, Bering Sea.	-, N	587 (N/A, 587, 2012) [4]	5.9	1
		West Coast Transient	-, N	243 (N/A, 243, 2009) [4]	2.4	0
Family Phocoenidae (porpoises)						
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, Y	975 (0.10, 896, 2012) [5].	8.9	[5] 34
Dall's porpoise	*Phocoenoides dalli*	Alaska	-,N	83,400 (0.097, N/A, 1993).	Undet	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion	*Eumetopias jubatus*	Western U.S.	E, D; Y	49,497 (2014)	297	233
		Eastern U.S.	-, D, Y	60,131–74,448 (2013)	1,645	92.3

TABLE 1—MARINE MAMMALS POTENTIALLY PRESENT WITHIN UPPER LYNN CANAL DURING THE SPECIFIED ACTIVITY—Continued

Common name	Scientific name	MMPA Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina richardii.*	Lynn Canal/Stephens Passage.	-, N	9,478 (8,605, 2011) ...	155	50

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (N/A).

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] N is based on counts of individual animals identified from photo-identification catalogs.

[5] In the 2016 SAR for harbor porpoise, NMFS identified population estimates and PBR for porpoises within inland southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative). The Annual M/SI value provided is for all Alaska fisheries, not just inland waters of southeast Alaska.

Pinnipeds

Steller Sea Lion

Steller sea lion populations that primarily occur west of 144° W. (Cape Suckling, Alaska) comprise the western Distinct Population Segment (wDPS), while all others comprise the eastern DPS (eDPS); however, there is regular movement of both DPSs across this boundary (Muto *et al.* 2017). Both of these populations may occur in the action area. Steller sea lions were listed as threatened range-wide under the ESA on 26 November 1990 (55 FR 49204). Steller sea lions were subsequently partitioned into the western and eastern DPSs in 1997 (Muto *et al.* 2017), with the wDPS being listed as endangered under the ESA and the eDPS remaining classified as threatened (62 FR 24345) until it was delisted in November 2013. In August 1993, NMFS published a final rule designating critical habitat for the Steller sea lion as a 20-nautical mile buffer around all major haul-outs and rookeries, as well as associated terrestrial, air and aquatic zones, and three large offshore foraging areas (50 CFR 226.202). There is no Steller sea lion critical habitat in the action area.

In Lynn Canal, Steller sea lions are most likely part of the eDPS; however, wDPS animals have moved into the area over the past several years. The first western DPS Steller sea lion documented in Lynn Canal occurred in 2003 at Benjamin Island in southern Lynn Canal (approximately 97 km or 60 miles south from the Ferry Terminal and 40 km or 25 miles north of Juneau, Alaska). This animal was subsequently re-sighted in 2003 and 2004. Two additional animals have been observed at Benjamin Island in 2005 and 2006. The Alaska Department of Fish and Game (ADF&G) has documented 88 western DPS Steller sea lions in the eastern region, of which 40 percent were female, and nine of these animals gave birth at rookeries in the eastern region. Data suggest five out of these nine females have permanently immigrated to the eastern region. Branded individuals from the western DPS have also been observed at Gran Point located about 22.5 km (14 mi) southeast of the project area. The eDPS stock has been increasing (Muto *et al.* 2017). Pup counts for the wDPS have been decreasing; however, this could be due to movement of adult females out of the region (suggesting some level of permanent emigration) indicating that sea lions may have responded to meso-scale (on the order of 100s of kilometers) variability in their environment (Muto *et al.* 2017).

Steller sea lions use terrestrial haulout sites to rest and take refuge. They also gather on well-defined, traditionally used rookeries to pup and breed. These habitats are typically gravel, rocky, or sand beaches; ledges; or rocky reefs (Allen and Angliss, 2013). Gran Point, which is located 14 mi (22.5 km) southeast of the project area, is the closest year-round Steller sea lion haulout. However, during the spring eulachon run, a seasonal haulout site is located on Taiya Point at the southern tip of Taiya Inlet (approximately 5 km or 3.1 mi from Haines Terminal). The eulachon run (which occurs for approximately three to four weeks during mid-March through May) in Lutak Inlet is extremely important to Steller sea lions for seasonal foraging. These spawning aggregations of forage fish provide densely aggregated, high-energy prey for Steller sea lions (and harbor seals) for brief time periods and influence haulout use (Sigler *et al.* 2004; Womble *et al.* 2005; Womble and Sigler 2006). The pre-spawning aggregations and spawning season for many forage fish species occur between March and May in Southeast Alaska just prior to the breeding season of sea lions (Pitcher *et al.* 2001; Womble and Sigler 2006). After May, Steller sea lion presence in the action area declines (see section 4.2 in ADOT&PF's application for more detailed information on fish runs and corresponding Steller sea lion presence).

Steller sea lions are included in subsistence harvests. From 2011–2012, an average of 50 animals from this stock were harvested each year, which is higher than previous estimates of 30 animals, on average, per year from 2004–2008 (Muto and Angliss, 2015). Incidental entanglement in fishing gear and marine debris is the biggest contributor to their annual human-caused mortality rate. In addition, since 2012, known cases of intentional mortality (*e.g.,* gunshot, explosives) have also contributed to this rate with an average of 15 animals per year from 2012 through 2015 (Muto *et al.* 2016).

Harbor Seal

Harbor seals generally are nonmigratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp 1944, Fisher 1952, Bigg 1969, 1981, Hastings *et al.* 2004).

Harbor seals are included in subsistence harvests. From 2011–2012,

an average of 50 seals from the Lynn Canal/Stephens Passage stock were harvested each year, which is higher than previous estimates of 30 animals, on average, per year from 2004–2008 (Muto *et al.* 2017). Entanglement is the biggest contributor to their annual human-caused mortality. Lynn Canal/Stephens Passage harbor seals are not listed as depleted or strategic under the MMPA and are not listed under the ESA.

Cetaceans

Humpback Whale

Under the MMPA, there are three stocks of humpback whales in the North Pacific: (1) The California/Oregon/Washington and Mexico stock, consisting of winter/spring populations in coastal Central America and coastal Mexico which migrate to the coast of California to southern British Columbia in summer/fall (Calambokidis *et al.* 1989, Steiger *et al.* 1991, Calambokidis *et al.* 1993); (2) the central North Pacific stock, consisting of winter/spring populations of the Hawaiian Islands which migrate primarily to northern British Columbia/Southeast Alaska, the Gulf of Alaska, and the Bering Sea/Aleutian Islands (Perry *et al.* 1990, Calambokidis *et al.* 1997); and (3) the western North Pacific stock, consisting of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands. The central North Pacific stock is the only stock that is found near the project activities.

On September 8, 2016, NMFS published a final decision changing the status of humpback whales under the ESA (81 FR 62259), effective October 11, 2016. Previously, humpback whales were listed under the ESA as an endangered species worldwide. In the 2016 decision, NMFS recognized the existence of 14 DPSs, classified four of those as endangered and one as threatened, and determined that the remaining nine DPSs do not warrant protection under the ESA. WNP DPS whales do not occur in Southeast Alaska. Whales from the Mexico DPS, which is a threatened species, have a 6.1 percent probability of occurrence in Southeast Alaska. Humpback whales in Southeast Alaska are most likely to be from the Hawaii DPS (93.9 percent probability), which is not protected under the ESA.

Humpback whales are not common in the action area but, if they are sighted, are generally present during mid- to late spring (mid-May through June) and vacate the area by July to follow large aggregations of forage fish in lower Lynn Canal. However, in recent years humpback whales have been observed at the entrance to Taiya Inlet throughout the fall months (MOS 2016). Four to five whales were observed in the area from spring 2015 to November (MOS 2016).

Killer Whale

Based on data regarding association patterns, acoustics, movements, and genetic differences, eight killer whale stocks are now recognized: (1) The Alaska Resident stock; (2) the Northern Resident stock; (3) the Southern Resident stock; (4) the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient stock; (5) the AT1 Transient stock; (6) the West Coast transient stock, occurring from California through southeastern Alaska; and (7) the Offshore stock, and (8) the Hawaiian stock. Only the Alaska resident; Northern resident; Gulf of Alaska, Aleutian Islands, and Bering Sea Transient (Gulf of Alaska transient); and the West coast transient stocks are considered in this application because other stocks occur outside the geographic area under consideration. Any of these four stocks could be seen in the action area; however, the Northern resident stock is most likely to occur in the area.

The Alaska resident stock is found from southeastern Alaska to the Aleutian Islands and Bering Sea. Intermixing of Alaska residents have been documented among the three areas, at least as far west as the eastern Aleutian Islands (Allen and Angliss, 2013). The Northern resident stock occurs from Washington State through part of southeastern Alaska. The Northern Resident stock is a transboundary stock and includes killer whales that frequent British Columbia, Canada and southeastern Alaska (Dahlheim *et al.,* 1997; Ford *et al.,* 2000). The Gulf of Alaska transient stock occurs mainly from Prince William Sound through the Aleutian Islands and Bering Sea. The West coast transient stock includes animals that occur in California, Oregon, Washington, British Columbia and southeastern Alaska.

Transient killer whales occur in smaller, less matrilineal groupings than resident killer whales. They are also more likely to rely on stealth tactics when foraging, making fewer and less conspicuous calls, and edging along shorelines and around headlands in order to hunt their prey, including, Steller sea lions, harbor seals, and smaller cetaceans, in highly coordinated attacks (Barrett-Lennard *et al.* 2011). Residents often travel in much larger and closer knit groups within which they share any fish they catch.

Data from Lutak Inlet suggests that a small number of killer whales infrequently enter the inlet, generally during spring fish runs when large aggregations of pinnipeds are also present (K. Hastings, pers. comm.). Up to 15 to 20 killer whales have been observed in Taiya Inlet 4 to 5 times a year from early spring through fall (MOS 2016). Transient killer whales have also been observed in Lutak Inlet in front of the Terminal when sea lions are present (K. Hastings, pers. comm.), presumably following their preferred food source. The mean group size of four to six animals documented by Dahlheim *et al.* (2009) is consistent with 4 to 5 sightings of up to 20 whales outside Taiya (MOS 2016) and Lutak Inlets.

Harbor Porpoise

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography. These are (1) the Southeast Alaska stock—occurring from the northern border of British Columbia to Cape Suckling, Alaska, (2) the Gulf of Alaska stock—occurring from Cape Suckling to Unimak Pass, and (3) the Bering Sea stock—occurring throughout the Aleutian Islands and all waters north of Unimak Pass (Allen and Angliss 2014). Only the Southeast Alaska stock is considered in this application because the other stocks are not found in the geographic area under consideration. The total estimated annual level of human-caused mortality and serious injury (M/SI) for harbor porpoise in Alaska (n=34) exceeds the calculated PBR of 8.9 harbor porpoise. However, this calculated PBR is based on the minimum population estimate for harbor porpoise in inland waters of southeast Alaska only (n=896) while the annual level of human caused M/SI is derived from take in all fisheries throughout Alaska. Therefore, PBR represents the total amount of animals that can be removed from all harbor porpoise stocks in Alaska combined. No mortality or serious injury of harbor porpoise from the Southeast Alaska stock has been observed incidental to U.S. commercial fisheries in Alaska in 2010–2014 (Breiwick 2013; MML unpubl. data). Population trends and status of this stock relative to its optimum sustainable population are currently unknown.

In Lynn Canal, observations of harbor porpoise are not frequent and occur primarily in lower Lynn Canal; however, the species has been observed as far north as Haines during the

summer surveys (Dahlheim *et al.* 2009). At the Haines Ferry Terminal, one small pod of harbor porpoise were observed on September 22, 2015 (ADOT&PF 2015). In addition, approximately 30 individuals have been observed in multiple groups of two or three, from spring through fall (MOS 2016).

There are no subsistence use of this species; however, entanglement in fishing gear contributes to human-caused mortality and serious injury. Muto *et al.* (2016) also reports harbor porpoise are vulnerable to physical modifications of nearshore habitats resulting from urban and industrial development (including waste management and nonpoint source runoff) and activities such as construction of docks and other over-water structures, filling of shallow areas, dredging, and noise (Linnenschmidt *et al.* 2013).

Dall's Porpoise

Currently one stock of Dall's porpoise is recognized in Alaskan waters (Muto *et al.* 2015). Dall's porpoise have not been observed in the waters of Lutak Inlet immediately adjacent to the Terminal but may be present in northern Lynn Canal. Local observers have observed only three to six Dall's porpoises in Taiya Inlet during the early spring and late fall (MOS 2016).

At present, there is no reliable information on trends in abundance for the Alaska stock of Dall's porpoise (Muto *et al.* 2015). From 2009 to 2013, no mortality or serious injury of Dall's porpoise was reported to the NMFS Alaska. There are also no subsistence uses of this species (Muto *et al.* 2015). Dall's porpoise are vulnerable to physical modifications of nearshore habitats resulting from urban and industrial development, including waste management and nonpoint source runoff) and noise (Linnenschmidt *et al.* 2013).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz;
- Pinnipeds in water; Phocidae (true seals): generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz; and
- Pinnipeds in water; Otariidae (eared seals): generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Six marine mammal species (four cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Of the cetacean species that may be present, one is classified as a low-frequency cetacean (*i.e.,* all mysticete species), one is classified as a mid-frequency cetacean (*i.e.,* all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e.,* porpoise and Kogia spp.).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

The introduction of anthropogenic noise into the aquatic environment from pile driving and removal is the primary means by which marine mammals may be harassed from ADOT&PF's specified activity. Animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.* 2007). In general, exposure to pile driving noise has the potential to result in auditory threshold shifts and behavioral reactions (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses such an increase in stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predatory and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), the species, age and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Southall *et al.,* 2007, Wartzok *et al.*

2004). Here we discuss physical auditory effects (threshold shifts) followed by behavioral effects and potential impacts on habitat.

NMFS defines a noise-induced threshold shift (TS) as ''a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS, 2016). The amount of threshold shift is customarily expressed in dB (ANSI 1995, Yost 2007). A TS can be permanent or temporary. As described in NMFS (2016), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.* 2014b), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral). When analyzing the auditory effects of noise exposure, it is often helpful to broadly categorize sound as either impulsive—noise with high peak sound pressure, short duration, fast rise-time, and broad frequency content—or non-impulsive. When considering auditory effects, vibratory pile driving is considered to be non-impulsive source while impact pile driving is treated as an impulsive source.

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2016). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.* 1958, 1959; Ward 1960; Kryter *et al.* 1966; Miller 1974; Ahroon *et al.* 1996; Henderson *et al.* 2008).

With the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak et al., 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2016).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2016). Based on data from cetacean TTS measurements (see Southall et al. 2007 for a review), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000; Finneran *et al.* 2002). As described in Finneran (2016), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SEL_{cum}) in an accelerating fashion: At low exposures with lower SEL_{cum}, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher higher SEL_{cum}, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

The potential for TTS from impact pile driving exists. After exposure to playbacks of impact pile driving sounds (rate 2760 strikes/hour) in captivity, mean TTS increased from 0 dB after 15 minute exposure to 5 dB after 360 minute exposure; recovery occurred within 60 minute (Kastelein *et al.* 2016). However, one must consider duration of exposure in the field. Installing piles at the Haines terminal requires 700 strikes per pile (average 15 minutes) with re-set time and one hour of vibratory pile driving before impact driving the second pile. Given marine mammals are likely moving through the action area and not remaining for extended periods of time, the potential for TTS declines.

Behavioral Harassment

Exposure to noise from pile driving and removal also has the potential to behavioral disturb marine mammals. Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). These potential behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007). For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

If a marine mammal does react to an underwater sound by changing its behavior or moving a small distance, the impacts of that change may not be important to the individual, the stock, or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on the animals could be important. In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans.

In 2016, ADOT&PF documented observations of marine mammals during construction activities (*i.e.,* pile driving and down-hole drilling) at the Kodiak Ferry Dock (see 80 FR 60636 for Final IHA **Federal Register** notice). In the marine mammal monitoring report for that project (ABR 2016), 1,281 Steller sea lions were observed within the Level B disturbance zone during pile driving or drilling (*i.e.,* documented as Level B take). Of these, 19 individuals demonstrated an alert behavior, 7 were

fleeing, and 19 swam away from the project site. All other animals (98 percent) were engaged in activities such as milling, foraging, or fighting and did not change their behavior. In addition, two sea lions approached within 20 meters of active vibratory pile driving activities. Three harbor seals were observed within the disturbance zone during pile-driving activities; none of them displayed disturbance behaviors. Fifteen killer whales and three harbor porpoise were also observed within the Level B harassment zone during pile driving. The killer whales were travelling or milling while all harbor porpoises were travelling. No signs of disturbance were noted for either of these species. Given the similarities in activities and habitat and the fact the same species are involved, we expect similar behavioral responses of marine mammals to the specified activity. That is, disturbance, if any, is likely to be temporary and localized (*e.g.,* small area movements).

Masking and Acoustic Habitat

Masking is the obscuring of sounds of interest to an animal by other sounds, typically at similar frequencies. It may be caused by both natural (*e.g.,* wind, waves, other animals) or anthropogenic (*e.g.,* pile driving) sources. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other sound is important in communication and detection of both predators and prey. Masking may partially or entirely reduce the audibility of acoustic signals (Southall *et al.* 2007). Background ambient sound may interfere with or mask the ability of an animal to detect a sound signal even when that signal is above its absolute hearing threshold.

Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (*e.g.,* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Masking is also likely to result in more severe consequences when continuous. At the Haines terminal, pile driving is intermittent. That is, vibratory hammering would occur for approximately one hour followed by a break before impact hammering to allow changes in equipment. There would also be another delay before driving the second pile. Further, pile driving would not occur for multiple consecutive days but instead would be spaced out over 19 days (plus 2 days for pile removal) over the course of approximately four months. Therefore, while masking may occur if a marine mammal if a marine mammal is in the terminal area, it would be of short duration. In addition, ADOT&PF would conduct pile driving outside of important foraging times (*i.e.,* spring echelon runs) the action area does not support key reproduction or other vital areas. Therefore, the impact of masking is likely to be minimal.

Marine Mammal Habitat Effects

Construction activities at the Haines Ferry terminal could have localized, temporary impacts on marine mammal habitat and their prey by increasing in-water sound pressure levels and slightly decreasing water quality. Increased noise levels may adversely affect marine mammal prey in the vicinity of the project area. During impact pile driving, elevated levels of underwater noise would ensonify across Lutak Inlet where both fish and mammals occur and could affect foraging success. ADOT&PF would avoid pile driving during the more critical months (March 1 through May 31) when ephemeral fish run in the inlet, thereby avoiding the greatest densities of marine mammals.

In-water pile driving, pile removal, and dredging activities would also cause short-term effects on water quality due to increased turbidity. Dredging is likely to cause the greatest increase in suspended solids; however, turbidity plumes created is localized to about 7.6 m (25 ft) and could last from a few minutes to several hours. Any contaminants associated with the re-suspended sediments would be tightly bound to the sediment matrix. Because of the relatively small dredge area, turbidity plumes would be limited to the immediate vicinity of the terminal and adjacent portion of the inlet. ADOT&PF would employ standard construction best management practices (BMPs; see section 9 and 11.1 in ADOT's application), thereby, reducing any impacts. Therefore, the impact from increased turbidity levels is expected to be discountable.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of whether the number of takes is small and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the impact and vibratory hammers has the potential to result in disruption of behavioral patterns and/or TTS for individual marine mammals. Impact pile driving may also result in auditory injury (Level A harassment) for mysticetes, high frequency cetaceans, and phocids due to modeled auditory injury zones based on exposure to noise from installing two piles per day. However, there are multiple hours between impact pile driving each pile; therefore, these zones are conservative as animals are not known to linger in the area. Therefore, PTS potential is low and, if occurs, would likely be minimal (*e.g.,* PTS onset). Auditory injury is not expected for mid-frequency species and otariids as the accumulation of energy does not reach NMFS' PTS thresholds. The death of a marine mammal is also a type of incidental take. However, as described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals may be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral

disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (*e.g.,* hearing, motivation, experience, demography, behavioral context) making effects difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 microPascal (μPa) root mean square (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns, impact pile driving) or intermittent (*e.g.,* scientific sonar) sources. ADOT&PF includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving); therefore, the 120 and 160 dB re 1 μPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) for five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 2. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

ADOT&PF prepared an acoustic modeling report that discusses their modeling approach and identifies modeled source levels and harassment zones for the Haines Ferry Terminal project (Quijano *et al.,* 2016). A summary of the methods of the modeling effort is presented here; the full report is available at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

To assess potential underwater noise exposure of marine mammals during pile driving, ADOT&PF used two models: A Pile Driving Source Model (PDSM) to estimate the sound radiation generated by the pile driver acting upon the pile (*i.e.,* source levels), and a Full Waveform Range-dependent Acoustic Model (FWRAM) to simulate sound propagation away from the pile. The modeling considered the effect of pile driving equipment, bathymetry, water sound speed profile, and seabed geoacoustic parameters to predict the acoustic footprint from impact and vibratory pile driving of cylindrical pipe piles with respect to NMFS Level A and Level B thresholds. The report presents scenarios in which one pile or two piles are driven per day; however, for purposes here, NMFS considered only the two pile scenario since ADOT&PF has indicated that up to two piles could be driven per day. The resulting Level A harassment distances represent the location at which an animal would remain for the entire duration it takes to drive one pile, reset, and then drive another pile that, in reality, occurs over multiple hours in one day. The Level B isopleth distances represent instantaneous exposure to the Level B harassment criterion.

To model sounds resulting from impact and vibratory pile driving of 30-in and 36-in cylindrical pipe pipes, the PDSM was used in conjunction with GRL Engineer's Wave Equation Analysis Program (GRLWEAP) pile driving simulation software to obtain an equivalent pile source signature (*i.e.,* source level) consisting of a vertical array of discrete point sources (Table 3). This signature accounts for several parameters that describe the operation: Pile type, material, size, and length; the pile driving equipment; and approximate pile penetration rate. The amplitude and phase of the point sources along the array were computed so that they collectively mimicked the time-frequency characteristics of the acoustic wave at the pile wall that results from a hammer strike (impact driving) or from forced vibration (vibratory driving) at the top end of the pile. This approach estimates spectral levels within the band 10–800 Hz where

most of the energy from pile driving is concentrated. An extrapolation method (Zykov *et al.* 2016) was used to extend modeled levels in 1/3-octave-bands up to 25 kHz, by applying a −2 dB per 1/3-octave-band roll-off coefficient to the SEL value starting at the 800 Hz band. This was done to estimate the acoustic energy at higher frequencies to compare to NMFS thresholds.

Once the pile source signature was computed, the FWRAM sound propagation modeling code was used to determine received levels as a function of depth, range, and azimuth direction. FWRAM is a time-domain acoustic model that used, as input, the PDSM-generated array of point sources representing the pile and computes synthetic pressure waveforms. To exclude sound field outliers, NMFS uses the maximum range at which the given sound level was encountered after excluding 5 percent of the farthest such points (R_{95}%) to estimate harassment threshold distances. To account for hearing groups, full-spectrum frequency-dependent weighting functions were applied at each frequency. The model also showed the transition from down-slope to up-slope propagation as the sound crosses Lutak Inlet, resulting in a sound field that decays at a constant rate with range.

Steel cylindrical pipe piles 41 m (135 ft) long with ½ in thick walls were modeled for a total penetration of 14 m (46 ft) into the sediment. In the case of vibratory pile driving, both pile sizes were assumed to be driven by an ICE–44B vibratory pile driver. For impact pile driving, the parameters corresponding to the Delmag D30–32 and D36–32 impact pile drivers were used to model scenarios with 30-in and 36-in diameter piles, respectively. Sound energy was accumulated over a specified number of hammer strikes, not as a function of time. The number of strikes required to install a single pile (assumed to be 700 strikes per pile) was estimated based on pile driving logs from another pile driving project at Haines. Sound footprints were calculated for the installation of two piles (thus, accumulated over 1400 strikes). For vibratory pile driving, sound energy was accumulated for the two piles that could be installed or removed in a 24-hour period.

Modeled source levels and distances to NMFS acoustic thresholds based on these source levels and the sound propagation model are presented in Table 3 and 4.

TABLE 3—IMPACT PILE DRIVING: MODELED SOURCE LEVELS AND HARASSMENT ZONES FOR IMPACT DRIVING TWO PILES PER DAY

[A dash indicates the threshold was not reached*]

Hearing group	Level A threshold distance (R95%) (km)	Level A threshold area (km^2)	Level B (160 dB) threshold distance (km)	Level B threshold area (km^2)
30 inch piles: modeled SL = 179.5 dB SEL				
Low-frequency cetacean	1.65	3.17	1.98	4.52
Mid-frequency cetacean	—	—		
High-frequency cetacean	1.45	1.13		
Phocid pinniped	0.26	0.09		
Otarrid pinniped	—	—		
36 inch piles: modeled SL = 180.9 dB SEL				
Low-frequency cetacean	2.04	4.78	2.67	6.79
Mid-frequency cetacean	—	—		
High-frequency cetacean	1.49	2.17		
Phocid pinniped	0.33	0.15		
Otarrid pinniped	—	—		

* NMFS also considers peak sound pressure levels; however, in no case were these thresholds reached or greater than the SEL distances.

TABLE 4—VIBRATORY PILE DRIVING: MODELED SOURCE LEVELS AND HARASSMENT ZONES FOR VIBRATORY DRIVING TWO PILES PER DAY

[A dash indicates the threshold was not reached*]

Hearing group	Level A threshold Distance (R95%) (km)	Level A threshold area (km^2)	Level B (160 dB) threshold distance (km)	Level B threshold area (km^2)
30 inch piles: modeled SL = 177.6 dB rms				
ALL	—	—	5.61	21.14
36 inch piles: modeled SL = 179.8 dB rms				
Low-frequency cetacean	0.02	<0.01	5.62	21.17
Mid-frequency cetacean	—	—		
High-frequency cetacean	—	—		
Phocid pinniped	—	—		
Otarrid pinniped	—	—		

* NMFS also considers peak sound pressure levels; however, in no case were these thresholds reached or greater than the SEL distances.

The modeling approach described above and in ADOT&PF's application constitutes a new approach in that it models both source levels and propagation loss to estimate distances to NMFS harassment thresholds. Some preliminary data comparing measured sound levels to those produced by the models has been presented, but no peer reviewed analysis has been undertaken. To test the validity of the model, NMFS has included a proposed requirement that ADOT&PF conduct a source source verification (SSV) study upon the onset of pile driving to validate the model or, if necessary, adjust the harassment zones based on measured data. This SSV study will also provide the first measurements of sound levels generated by 36-in piles driven by ADOT&PF. ADOT&PF has prepared a draft acoustic monitoring plan which can be found at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*. We welcome comments on the ADOT&PF's source level modeling approach and the acoustic monitoring plan.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

The data on marine mammals in this area are diverse and fairly robust due mostly to ADF&G surveys. Strong seasonal occurrence of marine mammals in this area is well documented; therefore, density estimates for each species were calculated by month rather than averaged throughout the year. For example, we have already discussed the seasonality of Steller sea lions and how prey aggregations affect their abundance. Monthly Steller sea lion densities were calculated based on abundance surveys conducted at Gran Point (ADF&G, pers. comm). Considering the Steller sea lion data used to calculate density is from Gran Point, ADOT&PF used this location to mark the southern boundary of the action area. The area from Gran Point north that encompasses Lutak Inlet and Lynn Canal is 91.3 km^2; this area was used for all species' density estimates. For species other than Steller sea lion, average sighting rate was used to calculate density (*i.e.,* species occurrence rate per month/91.3km^2). Harbor seals are generally present in the action area throughout the year, but their local abundance is clearly defined by the presence of available prey. During mid-March through mid-June, they are abundant in Lutak Inlet. For these months, an average of 100 seals per day in the inlet is considered a conservative estimate. For all other months, an estimate of 10 seals per month was incorporated into the density equation. Humpback whales are present in the action area from mid-April through June at a rate of five whales per month and given that a few whales have atypically remained in the area through the fall months (MOS 2016), we assumed two whales may remain within the action area from August through November. Densities for killer whales were calculated assuming five animals enter the area seasonally from one of the resident or transient stocks, and may remain from April through November. Harbor porpoise may be present in low numbers (average of five per month) throughout the year. Finally, Dall's porpoise are not sighted very frequently but tend to travel in larger groups; therefore, ten animals per for the four months of construction were considered in the density calculations. Table 5 provides the resulting marine mammal densities for months when terminal construction would occur (again, no pile activities would occur from March 1 through May 31 to avoid peak marine mammal abundance and critical foraging periods). Although the table provides all relevant months, we used the months with highest density to calculate estimated take for each species, thus producing the most conservative estimates. Please refer to section 6.6.1 in ADOT's application for supporting data information.

TABLE 5—MARINE MAMMAL DENSITY ESTIMATES (ANIMALS/km^2) DURING MONTHS WHEN PILE ACTIVITIES MAY OCCUR

Species	Jan	Feb	June	July	Aug	Sept	Oct	Nov	Dec
Steller sea lion	2.06	1.87	7.55	1.35	0	0.01	1.85	1.59	2.47
Harbor seal	0.109	0.109	1.09	0.109	0.109	0.109	0.109	0.109	0.109
Humpback whale	0	0	0.054	0.054	0.022	0.022	0.022	0.022	0
Killer whale	0	0	0.054	0.054	0.054	0.054	0.054	0.054	0
Harbor porpoise	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054	0.054
Dall's porpoise	0	0	0	0.03	0.03	0.03	0.03	0	0

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

The following equation was used to calculate potential Level A take per species per pile type: *Level A harassment zone/pile installation method/pile type * June density * # of pile driving days/pile type.* As described above, there would be 19 days of pile driving and 2 days of pile removal for a total of 21 pile activity days. We used the June density because, when densities changed throughout the year, this is when the highest density of all species occurs in the project area within the project in-water work window (with the exception of Dall's porpoise-see below) and ADOT&PF could conduct activities during this month. Therefore, the resulting take estimates assume all work is conducted in June, producing conservative estimates. The resulting Level A takes by pile type (30-in and 36-in) were then added to generate a total take number. For Level B harassment, the equation is the same; however, we first subtracted any Level A area from its corresponding Level B zone so not to ''double count'' takes.

ADOT&PF may take 1.9 humpback whales by Level A harassment when impact driving 30″ piles (*i.e.,* 3.17 km^2 * 0.054 animals/km^2 * 11 days). ADOT&PF may take 2.1 humpback whales by Level A harassment when impact driving 36-in piles (*i.e.,* 4.78 km^2 * 0.054 animals/km^2 * 8 days). Together, these equal 4 (*i.e.,* 1.9 from 30-in + 2.1 from 36″) potential Level A takes (Table 6). The Level B harassment zone for impact driving 30″ piles was calculated as 4.52 km^2 − 3.17 km^2 = 1.35 km^2. As such, potential take is calculated as 1.35 km^2 * 0.054 animals/km^2 * 11 days = 1 animal. To calculate take from impact driving 36'' piles, the Level A zone (4.78 km^2) was subtracted from the Level B zone (6.79 km^2) and the process was repeated: 2.01 km^2 * 0.054 animals/km^2 * 8 days = 1 animal. These takes were then added for a total of 2 takes from Level B harassment from impact pile driving. Finally, we included the potential Level B takes from vibratory pile driving and removal (Level B area = 21.1 km^2) using the method as described above. The resulting Level B takes (n = 24) were

added to the impact pile driving Level B takes (n = 2) for a total Level B take of 26 humpback whales.

For killer whales, Level B takes from vibratory pile driving were calculated using June density and the full 21.1 km² Level B zone since no Level A takes are predicted: 21.1 km² * 0.054 animals/km² * 21 days = 24 animals. Level B take from impact driving 30-in piles is calculated as 4.52 km² * 0.054 animals/km² * 11 days = 2.7 killer whales. Level B take from impact driving was calculated as 6.79 km² * 0.054 animals/km² * 8 days = 2.9 killer whales. Together, we proposed to authorize Level B take of 30 killer whales over the 21 days of pile activity.

For Dall's porpoise, we used the July density of 0.03 animals/km² in the take equations. The resulting Level A take was lower than the average group size; therefore, we increased to the number of takes to represent the possibility one group of ten Dall's porpoise may come within the Level A zone during impact pile driving. For Level B take, calculated take fell between 10 and 20 animals; therefore, we assumed two groups of ten each may occur within the Level B zone and are proposing to authorize 20 Level B takes.

Harbor porpoise take estimates were based on a density of .054 porpoise/km² with a Level A isopleth of 1.13 km² and 2.17 km² for impact pile driving 30-in (11 days) and 36-in (8 days) piles, respectively. The resulting 1 animal is less than the average group size; therefore, we are proposing to authorize the take of three harbor porpoise. For Level B, calculated take was estimated at 28 animals. Level B take numbers for harbor porpoise were based on a 21.1km² impact zone for vibratory pile driving while an isopleth of 4.62 km² and 3.39 km² were used for pile driving 30-in (11 days) and 36-in (8 days) piles.

Harbor seal Level A take numbers were based on 1.09 seals/km², a Level A zone of 0.09 and 0.15 km² for impact pile driving 30-in (11 days) and 36-in (8 days) piles, respectively. In total, three Level A takes of harbor seals are expected. For Level B, a 21.1 km² impact zone for vibratory pile driving was used whereas a 6.64 km² and 4.43 km² isopleth were used for impact pile driving 36-in and 30-in piles. In all, Level B take numbers for vibratory and impact pile driving were 598. It is important to note that given harbor seals are more likely to haul-out and linger within the Level B harassment zone, it is more likely that this number represents exposures and not individual seals. As with all other species, it is also likely animals will travel through the Level B zone heading up the inlet and then back down again. Because individual identification is not always possible, these separate sighting events would be counted as individual takes.

For Steller sea lions, Level B takes from vibratory pile driving were calculated using the most conservative June density (assuming worst case scenario that all work occurs in June) and the full 21.1 km² Level B zone since no Level A takes are predicted: 21.1 km² * 7.55 animals/km² * 21 days = 3345.4 animals. Level B take from impact driving 30-in piles was calculated as 4.52 km² * 7.55 animals/km² * 11 days = 375.4 sea lions. Level B take from impact driving 36-in piles was calculated as 6.79 km² * 7.55 animals/km² * 8 days = 410.1 sea lions. Together, NMFS proposes to authorize 4131 takes of sea lions over the 21 days of pile activity. This amount is not believed to be the number of individual Steller sea lions harassed but some lesser amount of individuals with repeated exposures.

Table 6 includes the total proposed take levels, by species, manner of taking, and the percentage of stock potentially taken by Level B harassment (we did not include Level A take percentages as the proposed number of take is essentially zero percent for all stocks).

TABLE 6—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND MONTH, RESULTING FROM IMPACT AND VIBRATORY PILE DRIVING

Species	Stock or DPS	Stock or DPS size [1]	Level A	Level B	Level B % of stock/DPS
Steller sea lion	eastern U.S	60,131	0	[2] 4,131	6.7
	western U.S	49,497	0	[2] 83	0.16
Harbor Seal	Lynn	9,478	3	598	6.3
	Canal/Stephens Passage				
Humpback whale	Central North Pacific	10,103	4	[3] 26	0.3
Killer whale	Alaska Resident	2,347	0	30	1.3–12.3
	Northern Resident	261	0		
	Gulf of Alaska, Aleutian Islands, Bering Sea.	587	0		
	West Coast Transient	243	0		
Harbor porpoise	Southeast Alaska	975	[4] 3	28	0.27
Dall's porpoise	Alaska	83,400	[4] 10	[4] 20	0.04

[1] Stock or DPS size here is N_{best} according to NMFS 2016 Stock Assessment Reports.

[2] Calculated Level B take of all SSL's is based on a June density of 7.55 animals which equals 4131 individuals. Based on the percent of branded animals at Gran Point and in consultation with the Alaska Regional Office, we used a 2 percent distinction factor to determine the number of animals potentially from the western DPS.

[3] Calculated Level B take of all humpback whales is based on a June density of 0.054 animals which equals 4131 individuals. For ESA section 7 consultation purposes, 6.1 percent are designated to the Mexico DPS and the remaining are designated to the Hawaii DPS; therefore, we assigned 2 Level B takes to the Mexico DPS.

[4] The calculated Level A take for harbor porpoise and Dall's porpoise is less than the average group size; therefore, we are proposing to authorize Level A take of one group of each species (*i.e.,* 3 and 10 animals, respectively). For Dall's porpoise, we propose to authorize two groups (*i.e.,* 20 animals) to be taken by Level B harassment. The calculated amount of Level B take for harbor porpoise is sufficient to cover multiple groups; therefore, no adjustments were made.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for

certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned) and,

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are proposed in the IHA:

- *Schedule:* No pile driving or removal would occur from March 1 through May 31 to avoid peak marine mammals abundance periods and critical foraging periods.
- *Pile Driving Delay/Shut-Down:* If an animal comes within 10 m (33 ft) of a pile being driven or removed, ADOT&PF would shut down. Pile driving activities would only be conducted during daylight hours when it is possible to visually monitor for marine mammals. If poor environmental conditions restrict visibility (*e.g.,* from excessive wind or fog, high Beaufort state), pile installation would be delayed. If a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, ADOT&PF would delay or shut-down pile driving if the marine mammals approaches or is observed within the Level A and/or B harassment zone. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as serious injury or mortality, the protected species observer (PSO) on watch would immediately call for the cessation of the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and NMFS Alaska Regional Office.
- *Soft-start:* For all impact pile driving, a ''soft start'' technique will be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before hammering at full energy. The soft start requires ADOT&PF to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one-minute waiting period, then two subsequent 3-strike sets. If any marine mammal is sighted within the Level A zone designated for that species prior to pile-driving, or during the soft start, ADOT&PF will delay pile-driving until the animal is confirmed to have moved outside and on a path away from Level A zone or if 15 minutes have elapsed since the last sighting.
- *Other best management practices:* ADOT&PF will drive all piles with a vibratory hammer to the maximum extent possible (*i.e.,* until a desired depth is achieved or to refusal) prior to using an impact hammer. ADOT&PF will also use the minimum hammer energy needed to safely install the piles. ADOT&PF will also utilize sound attenuation devices (*e.g.,* pile caps/cushions) to reduce source levels and, by association, received levels. However, because the actual amount of reduction of sound energy from using those devices in unknown, ADOT&PF and NMFS used relied on unattenuated source levels to calculate harassment zones.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, we have preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving and removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving

equipment is no more than thirty minutes.

A primary PSO would be placed at the terminal where pile driving would occur and a second observer would be placed at Tanani Point, located approximately 1 mi (1.6 km) southeast of the terminal. This second observer is at an advantage to observe species prior to entering the Level A zone as they move up Chilkoot Inlet, covering a majority of the Level B zone. PSOs would scan the waters using binoculars, and/or spotting scopes, and would use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. The following measures also apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated marine mammal observation data sheets. Specifically, the report must include:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality, ADOT&PF would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with ADOT&PF to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. ADOT&PF would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that ADOT&PF discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), ADOT&PF would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with ADOT&PF to determine whether modifications in the activities are appropriate.

In the event that ADOT&PF discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), ADOT&PF would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator, within 24 hours of the discovery. ADOT&PF would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Acoustic Monitoring

ADOT&PF relied on source level and sound propagation models to estimate Level A and harassment zones. To validate the outputs of these models, ADOT&PF will conduct acoustic monitoring during the first two days of pile driving. The acoustic monitoring plan is available for review at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In summary, ADOT&PF will deploy three bottom-mounted Autonomous Multichannel Acoustic Recorders (AMARs) and conduct spot measurements with a hydrophone over the side of a vessel. The AMARs will be

set 10 m, 1000m and 5,000 m from the pile. Within one week, ADOT&PF will provide NMFS a report of their acoustic measurements. NMFS will review the report and if empirical data demonstrates adjustments to Level A and B take zones are warranted, those adjustments will be made.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

The Level A harassment zones identified in Tables 3 and 4 are based upon an animal exposed to impact pile driving two piles per day. Considering duration of impact driving each pile (up to 15 minutes) and breaks between pile installations (to reset equipment and move pile into place), this means an animal would have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours. This is highly unlikely given marine mammal movement throughout the area. If an animal was exposed to accumulated sound energy, the resulting PTS would likely be small (*e.g.,* PTS onset) at lower frequencies where pile driving energy is concentrated. Nevertheless, we propose authorizing a small amount of Level A take for four species which is considered in our analysis.

Behavioral responses of marine mammals to pile driving and removal at the Terminal, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities (as noted during modification to the Kodiak Ferry Dock) or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day and that pile driving and removal would occur on 21 days across 4 months, any harassment would be temporary. In addition, ADOT&PF would not conduct pile driving or removal during the spring eulachon and herring runs as well as the fall salmon runs, when marine mammals are in greatest abundance and engaging in concentrated foraging behavior.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized.
- ADOT&PF would avoid pile driving and removal during peak periods of marine mammals abundance and foraging (*i.e.,* March 1 through May 31 eulachon and herring runs,).
- ADOT&PF would implement mitigation measures such as vibratory driving piles to the maximum extent practicable, soft-starts, use of sound attenuation devices, and shut downs.
- Monitoring reports from similar work in Alaska have documented little to no effect on individuals of the same species impacted by the specified activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize is 0.03 to 12.3 percent of any stock's best population estimate. The 12.3 percent is based on the possibility all 30 takes of killer whales are from the West Coast Transient stock (population size 243) which is highly unlikely. The next lowest percent of stock is for the Steller sea lion eDPS at 6.7 percent; however, this is also conservative because it assumes all pile driving occurs in June which has the highest Steller sea lion density and assumes all takes are of individual animals which is likely not the case. Harbor seal takes represent 6.3 percent of the Lynn Canal/Stephens passage population while takes for the remaining five species, including the Steller sea lion wDPS, represent less than 1 percent of all stocks.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with NMFS Alaska Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of the Steller sea lion wDPS and the Mexico humpback whale DPS which are listed under the ESA. The Permit and Conservation Division has requested initiation of Section 7 consultation with the Alaska Region for the issuance of

this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to ADOT&PF for conducting pile driving and removal at the Haines Ferry Terminal, Alaska, from October 1, 2018 September 30, 2019 provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid from October 1 2018, through September 30, 2019.

2. This IHA is valid only for pile driving and removal during the Haines Ferry Terminal Modification Project, Haines, Alaska.

3. *General Conditions.*

(a) A copy of this IHA must be in the possession of, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking is the Steller sea lions (*Eumetopias jubatus*), harbor seals (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoenoides dalli*) humpback whale (*Megaptera novaeangliae*) and killer whale (*Orcinus orca*).

(c) The taking, by harassment, is limited to the species listed in condition 3(b). See Table 6 for manner of taking and numbers of take authorized, by species.

(d) The taking by serious injury or death of the species listed in condition 3(b) of this IHA or any taking of species of marine mammal not listed in condition 3(b) is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The taking of any marine mammal in a manner prohibited under this IHA must be reported immediately to the Office of Protected Resources, NMFS.

(f) ADOT&PF shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and ADOT&PF staff prior to the start of pile driving and removal for the Haines Ferry Terminal Modification Project, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. *Mitigation*

The holder of this Authorization is required to implement the following mitigation measures:

(a) *Timing Restrictions:* Pile driving and removal shall occur only during daylight hours from October 1, 2018, through September 30, 2019, excluding March 1, 2019, to May 31, 2019.

(b) *Weather Restrictions:* If poor environmental conditions restrict visibility (*e.g.,* from excessive wind or fog, high Beaufort state), the commencement of pile installation shall be delayed.

(c) *Pile Driving Operations*

(i) ADOT&PF shall drive all piles with a vibratory hammer to the maximum extent possible (*i.e.,* until a desired depth is achieved or to refusal) prior to using an impact hammer. ADOT&PF shall also use the minimum hammer energy needed to safely install the piles.

(ii) ADOT&PF shall use sound attenuation devices (*e.g.,* pile caps/cushions) in an attempt to reduce source levels.

(iii) ADOT&PF shall use a ''soft start'' technique at the beginning of impact pile driving to allow any marine mammal that may be in the immediate area to leave before hammering at full energy. The soft start requires ADOT&PF to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one-minute waiting period, then two subsequent 3–strike sets.

(iv) ADOT&PF shall use a direct pull method as the primary removal method for piles and, if ineffective, then using a vibratory hammer;

(d) *Shut-down Procedures.*

(i) A shut-down zone of 10 m shall be established during impact pile driving. Pile driving shall not commence until marine mammals are not sighted within the shut-down zone for a 15-minute period. If a marine mammal enters the shut down zone during pile driving, the activity shall stop until the animal leaves the shut-down zone or until 15 minutes has elapsed without observation of the animal within the zone.

(ii) If any marine mammal is sighted within the Level A zone (see Tables 3 and 4) designated for that species prior to pile-driving, or during the soft start, ADOT&PF shall delay pile-driving until the animal is confirmed to have moved outside and on a path away from Level A zone or if 15 minutes have elapsed since the last sighting.

(iii) ADOT&PF shall use delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level A and/or B harassment zone.

(iv) ADOT&PF shall use delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level A and/or B harassment zone (as appropriate).

5. *Monitoring.*

The holder of this Authorization is required to abide by the following monitoring conditions:

(a) Two qualified Protected Species Observer (PSOs) shall be used to detect, document, and minimize impacts to marine mammals. One PSO shall be stationed at the Terminal and another shall be stationed at Tanani Point or other vantage point that allows visual line of sight across Chilkoot Inlet.

(b) Qualifications for PSOs for visual monitoring include:

(i) Visual acuity in both eyes (correction is permissible) sufficient for discernment of harbor seals on land or in the water with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(ii) Advanced education in biological science or related field (undergraduate degree or higher required);

(iii) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(iv) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(v) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(vi) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when construction activities were conducted; dates and times when construction activities were suspended to avoid potential incidental injury from construction sound or visual disturbance of marine mammals observed; and marine mammal behavior; and

(vii) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(c) PSO Monitoring and Data Collection: Monitoring shall be conducted before, during, and after pile driving and removal activities. PSOs shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in

concert with distance from construction activities. PSOs shall be placed at the best vantage point(s) practicable to monitor for marine mammals. The PSO shall also conduct biological resources awareness training for construction personnel. The awareness training shall be provided to brief construction personnel on identification of marine mammals (including neonates) and the need to avoid and minimize impacts to marine mammals. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work. The PSO shall have authority to stop construction if marine mammals appear distressed (evasive maneuvers, rapid breathing, inability to flush) or in danger of injury.

(d) Monitoring requirements also include:

(i) The holder of this Authorization must designate at least one biologically-trained, on-site individual(s), approved in advance by NMFS, to monitor marine mammal species. The PSO shall be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring.

(ii) PSOs shall be provided with the equipment necessary to effectively monitor for marine mammals in order to record species, behaviors, and responses to construction activities.

(iii) *Pre-activity Monitoring:* At least 30 minutes prior to the start of all pile driving, the PSO(s) must conduct observations on the number, type(s), location(s), and behavior(s) of marine mammals.

(iv) Data collection during marine mammal monitoring shall consist of counts of all marine mammals by species and number (if possible, also include sex and age class), a description of behavior, location, direction of movement, type of construction that is occurring, time construction activities starts and ends, any noise or visual disturbance, and time of the observation. The type of take (*i.e.,* Level A or B) and the assumed cause (whether related to construction activities or not) shall be noted. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state shall also be recorded. A written log of dates and times of monitoring activity shall be kept. The log shall report the following information:

- Time of PSO arrival on site;
- Time of the commencement of construction activities;
- Distances to all marine mammals relative to the disturbance;
- Observations, notes on marine mammal behavior during construction activities, as described above, and on the number and distribution observed in the project vicinity;
- For observations of all other marine mammals (if observed) the time and duration of each animal's presence in the project vicinity; the number of animals observed; the behavior of each animal, including any response to construction activities;
- Time of the cessation of construction activities;
- Time of PSO departure from site; and
- An estimate of the number (by species) of marine mammals that are known to have been disturbed by construction activities (based on visual observation) with a discussion of any specific behaviors those individuals exhibited. Disturbance must be recorded according to NMFS' three-point scale.

(v) *Post-activity Monitoring:* At least 30 minutes following the cessation of pile driving for the day, the PSO(s) will continue to scan for marine mammals and document any sightings in accordance with section 4(c)(iv) of this IHA.

(e) *Acoustic Monitoring:* ADOT&PF shall conduct acoustic monitoring at the onset of pile driving per the Acoustic Monitoring Plan. The data shall be analyzed to determine if any adjustments to the harassment zones are warranted.

6. *Reporting.*

(a) The ADOT&PF shall submit a draft report to NMFS within 90 days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for this project (if required), whichever comes first. The report shall include marine mammal observations pre-activity, during-activity, and post-activity of construction, and shall also provide descriptions of any behavioral responses by marine mammals due to disturbance from construction activities and a complete description of total take estimate based on the number of marine mammals observed during the course of construction. If comments are received from the NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter following resolution of comments on the draft report from NMFS. If no comments are received from NMFS, the draft report will be considered to be the final report. This report must contain the informational elements described above and in the monitoring plan of the application and at minimum shall also include:

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as serious injury or mortality, ADOT&PF shall immediately cease the specified activities and report the incident to the NMFS' Office of Protected Resources and the West Coast Regional Stranding Coordinator. The report must include the following information:

- Time and date of the incident;
- Description of the incident;
- Environmental conditions (*e.g.,* wind speed and direction, tidal conditions, cloud cover, and visibility);
- Description of all marine mammal observations and active sound
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with ADOT&PF to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. ADOT&PF may not resume their activities until notified by NMFS.

(ii) In the event that ADOT&PF discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent *(e.g.,* in less than a moderate state of decomposition), ADOT&PF shall immediately report the incident to the NMFS' Office of Protected Resources and the Alaska Regional Stranding Coordinator. The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the ADOT&PF to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that the ADOT&PF discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the ADOT&PF shall report the incident to the NMFS' Office of Protected Resources and the Alaska Regional Stranding Coordinator within 24 hours of the discovery. ADOT&PF shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed Haines Ferry Terminal Dock Modification Project. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: October 6, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–22145 Filed 10–12–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF739

Nominations to the Marine Fisheries Advisory Committee

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

ACTION: Notice; request for nominations.

SUMMARY: Nominations are being sought for appointment by the Secretary of Commerce to fill vacancies on the Marine Fisheries Advisory Committee (MAFAC or Committee) that are open or will be pending in February 2018. MAFAC is the only Federal advisory committee with the responsibility to advise the Secretary of Commerce (Secretary) on all matters concerning living marine resources that are the responsibility of the Department of Commerce. The Committee makes recommendations to the Secretary to assist in the development and implementation of Departmental regulations, policies, and programs critical to the mission and goals of NMFS. Nominations are encouraged from all interested parties involved with or representing interests affected by NMFS actions in managing living marine resources. Nominees should possess demonstrable expertise in a field related to the management of living marine resources and be able to fulfill the time commitments required for two annual meetings and year round subcommittee work. Individuals serve for a term of three years for no more than two consecutive terms if re-appointed. NMFS is seeking qualified nominees to fill upcoming vacancies being created by term limits.

DATES: Nominations must be postmarked or have an email date stamp on or before November 27, 2017.

ADDRESSES: Nominations should be sent to Heidi Lovett, MAFAC Assistant Director, NMFS Office of Policy, 14th Floor, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett, MAFAC Assistant Director; (301) 427–8034; email: *heidi.lovett@noaa.gov*.

SUPPLEMENTARY INFORMATION: The MAFAC was approved by the Secretary on December 28, 1970, and subsequently chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2, on February 17, 1971. The Committee meets twice a year with supplementary subcommittee meetings as determined necessary by the Committee Chair and Subcommittee Chairs. No less than 15 and no more than 21 individuals may serve on the Committee. Membership is comprised of highly qualified, diverse individuals representing commercial, recreational, subsistence, and aquaculture fisheries interests; seafood industry; environmental organizations; academic institutions; tribal and consumer groups; and other living marine resource interest groups from a balance of U.S. geographical regions, including the Western Pacific and Caribbean.

A MAFAC member cannot be a Federal employee, member of a Regional Fishery Management Council, registered Federal lobbyist, State employee, or agent of a foreign principal. Selected candidates must pass a security check and submit a financial disclosure form. Membership is voluntary, and except for reimbursable travel and related expenses, service is without pay.

Each nomination submission should include the nominee's name, a cover letter describing the nominee's qualifications and interest in serving on the Committee, curriculum vitae or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each nominee's submission: name, address, telephone number, fax number, and email address (if available).

Nominations should be sent to Heidi Lovett (see **ADDRESSES**) and must be received by November 27, 2017. The full text of the Committee Charter and its current membership can be viewed at the NMFS' Web page at *www.nmfs.noaa.gov/mafac.htm*.

Dated: October 10, 2017.

Jennifer Lukens,

Director for the Office of Policy, National Marine Fisheries Service.

[FR Doc. 2017–22220 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF535

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Gary Paxton Industrial Park Dock Modification Project.

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has issued an incidental harassment authorization (IHA) to the City and Borough of Sitka (CBS) for the taking marine mammals incidental to modifying the Gary Paxton Industrial Park (GPIP) dock in Sawmill Cove, Alaska.

DATES: The IHA is valid from October 1, 2017 through December 31, 2017.

ADDRESSES: Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed

authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Summary of Request

On June 21, 2017, NMFS received a complete application from CBS requesting take of marine mammals incidental to the GPIP dock modification project in Sawmill Cove, Alaska. CBS is authorized to take six species of marine mammals, by Level B harassment, and three of those six species by Level A harassment. Pile driving and removal would occur for 16 days from October 1 through December 31, 2017 with the majority of work completed in October. No subsequent IHAs would be necessary to complete the project. No mortality or serious injury is expected or authorized.

Description of Specified Activity

Overview

CBS is modifying an existing marine and commercial industrial site by removing existing aging docks and installing a new floating dock, small craft float, and transfer bridge. To do so, CBS must remove existing abandoned, creosote-treated piles and install new piles. Pile driving and pile removal associated with this work may result in auditory injury (Level A harassment) and behavioral harassment (Level B harassment) of select marine mammal species. All pile driving and removal would take place at the existing dock facility and occur for 16 days. The purpose of the project is to provide deep water port access, meet modern safety standards, and promote marine commerce in the region.

Dates and Duration

The IHA is valid from October 1, 2017, through December 31, 2017; however, the majority of work will occur in October. Removing old timber piles with a vibratory hammer will occur for up to 5 hours per day for 6 days. Removing the temporary template piles will occur for up to 1 hour on 2 additional days. Vibratory pile driving will occur for up to 2 hours per day for 6 days to install the permanent piles while impact pile driving will occur for up to 10 minutes a day for proofing following vibratory pile driving. In total, pile activities will occur for a maximum of 16 days .

Specified Geographic Region

Sawmill Cove is a small body of water located near Sitka, Alaska, at the mouth of Silver Bay,which opens to Sitka Sound and the Gulf of Alaska (see figures 1 and 2 in application). Bathymetry in Sawmill Cove shows a fairly even seafloor that gradually falls to a depth of approximately 50 feet (ft) (15 meters (m)). To the southeast, Silver Bay is approximately 0.5 miles (mi) (0.8 kilometers (km)) wide, 5.5 mi (8.9 km) long, and 150–250 ft (46–76 m) deep. The bay is uniform with few rock outcroppings or islands. To the southwest, the Eastern Channel opens to Sitka Sound, dropping off to depths of 400 ft (120 m) approximately 1.6 km (1 mi) southwest of the project site.

Sawmill Cove is an active marine commercial and industrial area. The dock footprint is previously disturbed with abandoned dock structures associated with the former Alaska Pulp Mill. Silver Bay Seafoods processing plant is located adjacent to the project site. This plant processes herring and salmon (primarily pink salmon).

Detailed Description of Specific Activities

The purpose of the project is to construct a multipurpose docking area that will serve a wide variety of vessels, provide deep water port access to the GPIP, meet modern standards for safety, and promote marine commerce in the region. The **Federal Register** notice soliciting comments on the proposed IHA contains a complete description of the specified activities and we provide a summary here.

The work includes removing 280 abandoned creosote-treated piles located in shallow water, installing a large floating deep-water dock (a repurposed barge measuring 250 ft (76.2 m) x 74 ft (22.6 m) x 19 ft (5.8 m)), small craft float (12 ft (3.7 m) x 100 ft (30.5 m)), and v-shaped float (see Figure 4 and 5 in CBS's application). To complete the new dock, CBS will construct two dolphin structures to support the floating dock. Each dolphin requires 6 temporary 30-in steel piles to act as a template for installing the permanent piles, 2 permanent 30-in steel batter piles (piles driven at an angle with the vertical to resist a lateral force) to act as the ''legs'' of the dolphin, and a single 48-in vertical steel piles which would constitute the center of the dolphin structure. CBS will use a vibratory and diesel impact hammer to install piles. The existing old timber piles associated with the old dock will

be removed by the vibratory hammer if they cannot be pulled out mechanically. The 12 temporary piles used for the template will also be removed following dock completion.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on July 26, 2017 (82 FR 34632). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and the National Park Service (NPS). All comments specific to the CBS's application that address the statutory and regulatory requirements or findings NMFS must make to issue an IHA are addressed here.

Comment 1: The Commission recommended distances to NMFS harassment isopleths from impact pile driving be recalculated using proxy single strike sound exposure levels (SELs) to estimate pile driving source levels and resulting distances to NMFS Level A harassment isopleths.

NMFS Response: NMFS uses dual exposure criteria to estimate the impact distance from noise sources: Instantaneous peak sound pressure level (SPL) and 24-hour cumulative sound exposure level (SEL) that is specific to each of the five marine mammal hearing groups. Computation of cumulative SEL for impact pile driving can be easily obtained if a single strike SEL, the number of strikes required to install one pile, and the total number of piles to be installed in a given day are known. In their application, CBS used sound pressure levels (SPLs) measured during pile driving projects elsewhere in southeast Alaska as a proxy for estimated source levels during the GPIP project. These SPL source levels were considered using a 100 millisecond (ms) pulse duration which is the nominal time integration period that contains 90% of the pulse acoustic energy when measured at approximately 10 m from the pile. The use of root mean square (rms) SPL with 100 msec default pulse duration can either lead to under- or over-estimates of the impact zone (Guan et al., 2017). Although both processes are acceptable to NMFS to estimate threshold distances, NFMS recognizes a more straightforward way to determine cumulative SEL values is to use single-strike SELs, when known. Therefore, NMFS calculated estimated distances to impact pile driving harassment thresholds using median SEL values from two reports measuring pile driving noise in southeast Alaska. For 30-in piles, the source level NMFS used is 180.7 decibel (dB) SEL assuming that the measurements from Ketchikan most closely resembles those in Sawmill Cove (see Table 72 in Denes et al., 2016). For 48-in piles, Austin et al. (2016) reports a median value of 186.7 dB SEL for a diesel hammer without a sound attenuation device with measurements taken 11 meters from the pile. Using the SEL metric method resulted in decreased Level A harassment zones for impact pile driving from the proposed IHA notice. NMFS adjusted the Level A harassment zones (Table 3) and mitigation zones (Table 5) accordingly.

Comment 2: The Commission questioned select mitigation measures proposed by CBS in their application and NMFS' proposed IHA notice. Specifically, they inquired why NMFS included a soft-start be implemented for vibratory pile driving and why the shut-down zone for otariids was smaller than for mid-frequency cetaceans when the Level A harassment isopleth for mid-frequency cetaceans is slightly (4.4 m) larger. The Commission also requested more information on the pile softening material CBS proposed to use between the pile and impact hammer. The Commission stated it is incumbent on NMFS to evaluate the appropriateness and necessity of various mitigation measures.

NMFS Response: The applicant voluntarily proposed a soft-start to vibratory pile driving and the shut-down zones. The shut-down zones fully encompass the very small (less than 50 m) Level A harassment zones for both otariids and mid-frequency cetaceans and would be effective at eliminating the potential for Level A harassment. NMFS notes the Commission did not specify a mitigation recommendation (*e.g.,* reduce both shut-down zones, increase both shut-down zones, etc.) and did not address the change to harassment isopleth distances based on using SEL source levels. In the final IHA, NMFS has reduced the shut-down zone for otariids and mid-frequency cetaceans to fully encompass the revised Level A harassment zone for both hearing groups. In addition, NMFS has increased the shut-down zone for low-frequency cetaceans to 380 m and 1,100 m for 30-in and 48-in piles, respectively, during impact pile driving to fully encompass the revised Level A harassment zones for this hearing group, avoiding all Level A take of humpback whales. NMFS also confirmed the softening material is a type of pile cushion. Finally, with respect to duties, section 101(a)(5)(D) of the MMPA requires NMFS to prescribe means of effecting the least practicable adverse impact on marine mammals. Here, the applicant has determined that the vibratory ramp-up mitigation measure is practicable. However, NMFS has not included the vibratory ramp-up measure in the requirements of the IHA.

Comment 3: The Commission requested the following mitigation measure be included: Using delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level A and/or B harassment zone.

NMFS Response: NMFS has included this measure to provide clarity to the applicant that they are not authorized to take marine mammals beyond those identified in the IHA.

Comment 4: The NPS provided information regarding the abundance of humpback whales present in the action area and their habitat use during the time when pile operations would occur (October–December). NPS expressed concern that many humpback whales are foraging intensely either in preparation for migrating or for over-wintering in Sitka Sound and that pile driving noise could adversely affect this behavior. The NPS recommended the work window be shifted outside of this time period.

NMFS Response: NMFS consulted with a local researcher who has been conducting marine mammal surveys in the action area since 2001 and provided the humpback whale abundance and behavior data informing CBS's application. NMFS understands that whales start entering Sitka Sound around September with November marking the beginning of high habitat use (pers. comm. J. Straley, August 25, 2017). Furthermore, whale abundance can vary year to year with high concentrations some years and low concentrations in other years. NMFS then consulted with CBS who identified that the majority of work will be conducted in the month of October, prior to peak humpback whale foraging periods. However, because equipment and weather delays cannot be scheduled, NMFS is not requiring the applicant be completed by the end of October. Despite the potentially high concentration of humpback whales in the action area, the duration of pile activity is relatively short and pile driving would not occur on consecutive days. Finally, NMFS has included a new measure requiring CBS shut-down impact pile driving work should a humpback whale enter within the Level A harassment zone, avoiding Level A take of this species.

Comment 5: The NPS identified that California sea lions, sea otters and silver-haired bats are known to be

present in the action area and NMFS should consider these species.

NMFS Response: Although not common in the action area, NMFS has included take authorization for California sea lions in the final IHA. Sea otters and silver-haired bats are not under NMFS' jurisdiction and the authorization to take marine mammals under NMFS' jurisdiction does not affect these species.

Comment 6: NPS recommended a mitigation measure be included that requires pile driving to only proceed when the Protected Species Observers (PSOs) give a ''notice to proceed.''

NMFS Response: The IHA is conditioned such that pile driving delay and shut-down procedures be implemented for a variety of reasons, including, but not limited to, a marine mammal is within a designated shut-down zone or an animal would be taken in a manner not authorized if pile driving proceeded. The delay and shut-down measures would be triggered by a notice from both the land-based and boat-based PSO. NMFS has also included a measure that pile driving shall not begin until the PSO gives the recommended ''notice to proceed''.

Comment 7: NPS recommended that indirect and cumulative impacts under the National Environmental Policy Act (NEPA) be considered, as the installation of the new dock would increase medium- and large-vessel traffic in and out of Silver Bay.

NMFS Response: NMFS determined that the issuance of this IHA qualified for a Categorical Exclusion (CE); a CE is one way to meet the requirements and objectives of NEPA and efficiently complete the environmental review process for proposed actions that normally do not require a resource-intensive analysis. The CE category associated with the issuance of ITAs is CE B4, which is ''Issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for the incidental, but not intentional, take by harassment of marine mammals during specified activities and for which no serious injury or mortality is anticipated.'' The scope of a CE determination is limited to the decision NMFS is responsible for, which is to consider authorizing ''take'' of marine mammals incidental to a specified activity. NMFS is not authorizing, funding or directing any other aspect of the applicant's activity and issuing a given IHA does not give NMFS the authority to authorize the applicant's activity under other laws or regulations.

With respect to increased vessel traffic, the project would not significantly increase vessel traffic. Historically Sawmill Cove was used by the Alaska Pulp Corporation and outbound pulp shipments were frequent during the corporation's operations from 1959 to 1993. There are no identified manufacturing or processing activities that would achieve historic levels of use at the GPIP dock. Further, an assessment determined that Sitka's inbound and outbound cargo needs are being met at this time through a combination of private and public docks, and, given a flat population projection through 2035, no major changes in cargo shipments are expected (Northern Economics 2009). CBS does not have leases in place for use of the new GPIP dock. However, in the near future, the dock will likely be used to berth vessels associated with the existing commercial fishing industry but a net increase in vessels is not expected. In addition, moorings are part of the project; therefore, vessels may remain within Sawmill Cover instead of transiting to Sitka to dock overnight.

Description of Marine Mammals in the Area of Specified Activities

There are seven marine mammal species known to occur in the vicinity of the project area which may be subjected to take. These are the humpback whale, killer whale, Steller sea lion, harbor porpoise, harbor seal, California sea lion, and sea otter (*Enhydra lutris nereis*). The sea otter is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS); therefore, this species is also not considered further in this document. NMFS notes the California sea lion was not included in the proposed IHA **Federal Register** notice (82 FR 34632; July 27, 2017) but has since been incorporated based on public comment.

We have reviewed CBS's species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 and 4 of CBS's application as well as the proposed incidental harassment authorization published in the **Federal Register** (82 FR 34632; July 27, 2017) instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts which provide information regarding the biology and behavior of the marine resources that occur in the vicinity of the project area. We provided additional information for the potentially affected stocks, including details of stock-wide status, trends, and threats, in our **Federal Register** notice of proposed authorization (82 FR 34632).

Table 1 lists marine mammal stocks that could occur in the vicinity of the dock project and summarizes key information regarding stock status and abundance. Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

TABLE 1—MARINE MAMMALS EXPECTED TO OCCUR WITHIN SITKA SOUND

Common name	Scientific name	MMPA stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	Occurrence	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)							
Family Balaenidae							
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	E, D, Y	10,103 (0.3, 7,890, 2006)	Frequent	83	21
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Delphinidae							
Killer whale	Orcinus Orca	Alaska Resident	-, N	2,347 (N/A, 2,347, 2012) [4].	Infrequent	23.4	1
		Northern Resident	-, N	261 (N/A, 261, 2011) [4]		1.96	0
		Gulf of Alaska, Aleutian Islands, Bering Sea Transient.	-, N	587 (N/A, 587, 2012) [4]		5.9	0.6

TABLE 1—MARINE MAMMALS EXPECTED TO OCCUR WITHIN SITKA SOUND—Continued

Common name	Scientific name	MMPA stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	Occurrence	PBR	Annual M/SI [3]
		West Coast Transient	-, N	243 (N/A, 243, 2009) [4]		2.4	1
Family Phocoenidae							
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, Y	975 (0.10, 896, 2012) [5]	Infrequent	[5] 8.9	[5] 34
Order Carnivora—Superfamily Pinnipedia							
Family Otariidae (eared seals and sea lions)							
Steller sea lion	Eumetopias jubatus	Western U.S.	E, D; Y	49,497 (N/A, 49,497, 2014).	Common	297	233
		Eastern U.S.	-, D, Y	60,131–74,448 (N/A, 36,551, 2013).		1,645	92.3
California sea lion [6]	*Zalophus californianus*	U.S. stock	-, N	296,750 (N/A, 153,337, 2008).	Infrequent	9,200	62
Family Phocidae (earless seals)							
Harbor seal	*Phoca vitulina richardii*	Sitka/Chatham Straight	-, N	14,855 (-, 13,212, 2011)	Common	555	77

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (N/A).

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] N is based on counts of individual animals identified from photo-identification catalogs.

[5] In the SAR for harbor porpoise (NMFS 2017), NMFS identified population estimates and PBR for porpoises within inland Southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative). The calculated PBR is considered unreliable for the entire stock because it is based on estimates from surveys of only a portion (the inside waters of Southeast Alaska) of the range of this stock as currently designated. The Annual M/SI is for the entire stock, including coastal waters.

[6] The California sea lion was added to the final IHA based on anecdotal evidence provided in public comment.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The **Federal Register** notice of proposed authorization (82 FR 834632; July 26, 2017) provides a general background on sound relevant to the specified activity as well as a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals, and is not repeated here.

The **Federal Register** notice of proposed authorization (82 FR 834632; July 26, 2017) also provides a description of the potential effects of the construction activities on marine mammal habitat, and is not repeated here. In summary, pile driving and removal will occur at an existing dock facility and will not have a measurable adverse impact on marine mammal habitat.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, Section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are primarily Level B harassment, as pile driving and removal has the potential to result in disruption of behavioral patterns and TTS for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for high frequency species and harbor seals (phocids) due to larger predicted auditory injury zones. Auditory injury is unlikely to occur for all other hearing groups due to small zones or implementing shut-down mitigation. The mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. No mortality or serious injury is anticipated from the activity or authorized in the IHA. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et*

al., 2007, Ellison et al., 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. CBS's activity includes the use of continuous (vibratory pile driving and removal) and impulsive (impact pile driving) sources, and therefore the 120 dB and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). CBS's activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and removal) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 2. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa$_2$s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Distances to Level A and Level B thresholds were calculated based on various source levels for a given activity and pile type (*e.g.,* impact hammering 48 in pile, vibratory removal of timber piles) and, for Level A harassment, accounted for the maximum duration of that activity per day using the spreadsheet tool developed by NMFS. Because we used a single strike SEL to calculate Level A harassment distances from impact pile driving instead of SPL as contained in the proposed IHA, we provide the calculation inputs here. For impact pile driving 30-in piles, the following inputs were used in the guidance spreadsheet: 182.1 dB SEL source level, 400 strikes per pile, 1 pile per day, a practical spreading loss constant (15 log R), and 10 m for distance of single-strike SEL measurement. For impact pile driving 48-in piles, we used a single-strike SEL value of 187.9 dB, 400 strikes per pile, 1 pile per day, a practical spreading loss constant (15 log R), and 11 m for distance of single-strike SEL measurement. The inputs and resulting isopleths for vibratory pile driving did not change from the proposed IHA stage. The Level B harassment distances also did not change. Table 3 contains all calculated distances to Level A and B harassment thresholds.

TABLE 3—DISTANCES TO NMFS LEVEL A AND B ACOUSTIC THRESHOLDS

Activity	Source level	Distance (m) to Level A and Level B thresholds					
		Level A [3]					Level B
		Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid	
Vibratory Hammer							
12 and 16-inch wood removal (5 hours per day).	155 SPL	8.0	0.7	11.8	4.8	0.3	2,154
30-inch steel temporary installation (3 hours per day).	166 SPL	30.6	2.7	45.3	18.6	1.3	[4] 11,659

TABLE 3—DISTANCES TO NMFS LEVEL A AND B ACOUSTIC THRESHOLDS—Continued

Activity	Source level	Distance (m) to Level A and Level B thresholds					
		Level A [3]					Level B
		Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid	
30-inch steel temporary removal (1 hour per day).	166 SPL	14.7	1.3	21.8	8.9	0.6	[4] 11,659
30-inch steel permanent installation (2 hours per day).	166 SPL	23.4	2.1	34.5	14.2	1.0	[4] 11,659
48-inch steel permanent installation (2 hours per day).	168.2 SPL	32.7	2.9	48.4	19.9	1.4	[4] 16,343
Impact Hammer							
30-inch steel permanent installation (10 minutes per day).	180.7 SEL [1]/196 SPL [2].	380.9	13.5	453.7	203.8	14.8	2,512
48-inch steel permanent installation (10 minutes per day).	186.7 SEL [1]/ 198.6 SPL [2].	1,052.4	37.4	1,253.5	563.2	41.0	3,744

[1] Single strike sound exposure levels (SELs) are median measured source levels from the Port of Anchorage test pile project for 48-in piles (Austin et al. 2016) and Alaska Department of Transportation hydroacoustic studies for 30-in piles (Denes et al. 2016, Table 72).
[2] SPL rms values were used to calculate distances to Level B harassment isopleths.
[3] The values provided here represent the distances at which an animal may incur PTS if that animal remained at that distance for the entire duration of the activity. For example, a humpback whale (low frequency cetacean) would have to remain 8 meters from timber piles being removed for 5 hours for PTS to occur.
[4] These represent calculated distances based on practical spreading model; however, land at the end of Silver Bay obstructs underwater sound transmission at approximately 9,500 m from the source.

Marine Mammal Occurrence

In this section, we provide the information about the presence, density, or group structure of marine mammals that will inform the take calculations.

Data on marine mammals in the project area is limited. Land-based surveys conducted at Sitka's Whale Park occurred from September through May, annually, from 1994 to 2000 (Straley and Pendell, 2017). From 2000 to 2016, Straley also collected marine mammal data from small vessels throughout the year. There are no density data available; therefore, probability of occurrence based on group sightings and typical group sizes were used in take calculations (Table 4).

TABLE 4—MARINE MAMMAL DATA FROM LAND-BASED SURVEYS AT SITKA'S WHALE PARK FROM SEPTEMBER THROUGH MAY, ANNUALLY, FROM 1994–2000

Species	Months sighted	Average count per month (Oct, Nov, Dec)	Typical group size	Max group size
Humpback whale	September–April	50, 116, 101	2–4	unknown.
Killer whale	October–March	12, 12, 4	4–8	8.
Harbor porpoise	September, March, April	7, 0, 0	5	8.
Steller sea lion	September–April	10, 12, 107	1–2	100.
Harbor seal	September–April	1, 1, 0	1–2	2.
California sea lion [2]	n/a	n/a	1–2	2.

[1] Only months when the project would occur are included here. For full counts, please see section 4 in CBS's application.
[2] There are no documented sightings of California sea lions in research reports; however, anecdotal evidence suggests this species, while not common, is possible within the project area.

Because density data are not available for Sitka Sound, we used group sighting data as an indicator of how often marine mammals may be present during the 16 days of pile driving/removing activity in consideration of the Level B harassment zones. We also considered typical group size to determine how many animals may be present on any given day. For all species, we used the following equation to estimate the number of animals, by species, potentially taken from exposure to pile driving and removing noise: *Estimated Take = Number of animals × number of days animals are expected during pile activity by type* (Table 5).

The Sitka Whale Park surveys found humpback whale groups may include up to four individuals (Straley and Pendell 2017). Based on sighting frequency, this species is present more often during winter months when the project would occur and we conservatively estimate that a group of 4 humpback whales may occur within the Level B harassment zone on any of the 16 days of pile activities. Therefore, we have authorized 64 Level B takes of humpback whales. Due to the decreased Level A harassment isopleth from the proposed IHA stage, CBS will shut-down impact pile driving if a humpback whale comes within the established shut-down zone; therefore, no Level A take for this species is anticipated or authorized (see *Mitigation* section).

For killer whales, it is assumed eight killer whales could be present within the Level B harassment zone on any two days of pile activity; therefore, we have authorized 16 takes. No Level A take is

anticipated or authorized due to shut down mitigation measures (see *Mitigation* section).

Harbor porpoise typically travel in groups of five and we anticipate a group could enter the Level A zone on two of the six days of impact pile driving and a group could be present within the Level B harassment zone on two days of the project. Therefore, we have authorized ten Level A takes (five animals × two days) and ten Level B takes (five animals × two days) of harbor porpoise.

Steller sea lions are common in the area during the work with one to ten animals present on any given day of work. We assume that on any day of the 16 days of pile driving, 14 Steller sea lions could be within the Level B harassment zone on each day of pile driving. Therefore, over the course of 16 days of pile driving, we have authorized 224 sea lions may be taken (14 animals × 16 days); however, this is likely representative of the number of exposures, not individuals taken. No Level A takes of Steller sea lions are anticipated or authorized from impact pile driving due to the small harassment zone and mitigation shut down measures (see *Mitigation* section).

Harbor seals are found in the action area throughout the year but in low numbers. Group size is typically one to two animals. It is anticipated that two harbor seals could be present within the Level A zone every other day of the six days of impact pile driving. It is also assumed that a group of 2 harbor seals could be encountered in the Level B harassment zone during the 16 days of pile driving. Therefore, we have authorized 6 Level A takes (2 animals × 3 days) and 32 Level B takes (2 animals × 16 days) of harbor seals.

For harbor seals and Steller sea lions, the number of animals potentially present likely reflects the same individuals occurring over multiple days; therefore the number of takes likely represents exposures versus individuals. For all cetacean species, it is likely the calculated takes do reflect the number of individuals exposed because they would be expected to be transiting through the action area, not lingering like pinnipeds.

NMFS has also included 16 Level B takes of California sea lions in the IHA. No Level A takes are authorized because the shut-down zone established for Steller sea lions would apply and California sea lions are in the same hearing group as Steller sea lions meaning the distance to Level A harassment is the same. As described above, no research reports include sightings of California sea lions and they were not included in the notice of the proposed IHA. However, during the public comment period, the NPS identified that California sea lions, while not common, could potentially be in the project area while pile activities will occur. Therefore, NMFS has authorized 16 Level B takes which is one half the amount of harbor seal takes, another species which may occur in the project area but is less likely to occur than Steller sea lions. Similar to humpback and other pinnipeds, this amount of take represents exposures and not necessarily the number of individuals exposed given California sea lions may linger in the action area.

TABLE 5—AUTHORIZED TAKE OF MARINE MAMMALS, BY STOCK, INCIDENTAL TO PILE REMOVAL AND PILE DRIVING

Species	Stock (Nbest)	Level A	Level B	Percent of stock
Humpback whale	Hawaii DPS (11,398)	0	60	0.5
	Mexico DPS (3,264)	0	4	0.12
Killer whale	Alaska Resident (2,347)	0	16	[1] 0.67
	Northern Resident (261)			[1] 6.1
	Gulf of Alaska, Aleutian Islands, Bering Sea (587).			[1] 2.7
	West Coast Transient (243)			[1] 6.6
Harbor porpoise	Southeast Alaska (975)	10	10	1.0
Steller sea lion	Western U.S. (36,551)	0	5	0.01
	Eastern U.S. (49,497)	0	219	0.5
Harbor seal	Sitka/Chatham Straight (14,855)	6	32	0.3
California sea lion	U.S. Stock (296,750)	0	16	0.01

[1] Under the MMPA, humpback whales are considered a single stock; however, we have divided them here to account for DPSs listed under the ESA.

[2] These percentages assume all 16 takes comes from any given stock.

[3] Of the 224 exposed Steller sea lions, we expect approximately 2 percent to be from the endangered WDPS (~3 takes) and the remainder to be from the EDPS based on recent observations of branded animals in the Sitka Alaska area (Jemison, 2017).

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation can ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat—which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, and; (2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures, designed to minimize noise exposure, are included in the IHA:

• CBS shall not begin pile driving or removal until a PSO has given a notice to proceed.

• CBS shall first attempt to direct pull old, abandoned piles that would minimize noise input into the marine environment; if those efforts prove to be ineffective, they may proceed with a vibratory hammer.

• CBS shall operate the vibratory hammer at a reduced energy setting (30 to 50 percent of its rated energy).

• CBS shall use a pile cushion during impact hammering.

• CBS shall use a ''soft start'' technique when impact pile driving. CBS shall provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3-strike sets. If any marine mammal is sighted within a shut-down zone during the 30 minute survey prior to pile driving, or during the soft start, CBS shall delay pile-driving until the animal is confirmed to have moved outside and on a path away from the area or if 15 minutes (for pinnipeds or small cetaceans) or 30 minutes (for large cetaceans) have elapsed since the last sighting of the marine mammal within the shut-downzone. This soft-start shall be applied prior to beginning pile driving activities each day or when pile driving hammers have been idle for more than 30 minutes.

• CBS shall drive all piles with a vibratory hammer to the maximum extent possible (*i.e.,* until a desired depth is achieved or to refusal) prior to using an impact hammer. CBS shall also use the minimum impact hammer energy needed to safely install the piles.

• CBS shall use delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level A and/or B harassment zone.

• CBS shall implement the shut-down zones identified in Table 6 to minimize harassment.

TABLE 6—PILE DRIVING SHUT DOWN ZONES DESIGNED TO MINIMIZE LEVEL A TAKE

Source	Shut-down zones in meters				
	Low-frequency cetaceans (humpback whales)	Mid-frequency cetaceans (killer whale)	High-frequency cetaceans (harbor porpoise)	Phocid pinnipeds (harbor seal)	Otariid pinnipeds (steller and california sea lion)
Vibratory Pile Driving/Removal					
All	10 m				
Impact Pile Driving					
30-inch steel (installation)	[1] 380	[1] 25	200	150	[1] 25
48-inch steel (installation)	[1] 1,100	[1] 50	200	150	[1] 50

[1] Indicates a shut-down zone that encompasses the entire Level A zone; therefore, no Level A take of species within these hearing groups are authorized.

Based on our evaluation of the included measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical to both compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

• Mitigation and monitoring effectiveness.

Monitoring Protocols—Monitoring shall be conducted before, during, and after pile driving and removal activities. Monitoring will initiate 30 minutes prior to pile driving and removal through 30 minutes post-completion of pile activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than one hour.

One land-based protected species observer (PSO) shall be present during

all pile activity. A secondary boat-based PSO shall be on watch during all pile activity other than timber pile removal. The land-based PSO shall be located at the GPIP construction site and will be able to view the area across Silver Bay to the west and east of Sugarloaf Point and monitor the mouth of Silver Bay to determine whether marine mammals enter the action area from East Channel of Sitka Sound (the entrance monitoring zone). The PSO shall have no other primary duties than watching for and reporting on events related to marine mammals. The PSO shall scan the monitoring zone for the presence of listed species for 30 minutes before any pile driving or removal activities take place. Each day prior to commencing in-water work the PSO shall conduct a radio check with the construction foreman or superintendent. The PSO shall brief the foreman or supervisor as to the shut-down procedures if any marine mammals are observed likely to enter or within a shut-down zone, and shall have the foreman brief the crew, requesting that the crew notify the PSO when a marine mammal is spotted. To reduce fatigue, the PSO shall work in shifts lasting no longer than 4 hours with at least a 1-hour break between shifts, and shall not perform duties as an PSO for more than 12 hours in a 24-hr period. The PSO shall continue monitoring each day for 15 minutes after all in-water pile driving/removal is completed.

No less than 30 minutes prior to any pile driving or removal (other than timber pile removal), the boat-based PSO shall begin monitoring the Level A and B harassment zones. A boat-based PSO is not required during timber pile removal due to limited harassment zones. This PSO shall transit to the head of Silver Bay to ensure that there are no marine mammals for which take is not authorized or to document species for which take is authorized. The boat-based PSO shall communicate with the construction foreman or superintendent once the area is determined to be clear and pile driving activities can begin. The boat-based PSO shall then transit back to the construction site and spend the rest of the pile driving time monitoring the area from the boat (see Figure 3 in CBS's application).

If any marine mammals are present within a shut-down zone, pile driving and removal activities shall not begin until the animal(s) has left the shut-down zone or no marine mammals have been observed in the shut-down zone for 15 minutes (for pinnipeds) or 30 minutes (for cetaceans). The boat-based PSO shall remain near the mouth of Sawmill Cove for the duration of pile driving to monitor for any animals approaching the area.

The following measures also apply to visual monitoring:

(1) Monitoring shall be conducted by independent (*i.e.,* not construction personnel) qualified observers, who shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shut-down/delay procedures when applicable by calling for the shut-down to the hammer operator. At least one observer must have prior experience working as an observer. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience. In addition, all PSOs must have:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shut-down zone; and marine mammal behavior; and

(g) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

In addition, CBS must submit to NMFS OPR the curriculum vitae (CV) of all observers prior to monitoring.

Reporting

The IHA requires CBS to submit a draft report to NMFS within ninety calendar days of the completion of marine mammal monitoring. A final report shall be prepared and submitted within thirty days following resolution of any comments on the draft report from NMFS. The report will contain, among other things, information on monitoring results, mitigation measure implementation, and number of animals, by species, taken. The CBS will also immediately report injured or dead marine mammals to NMFS and, if the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (*e.g.,* serious injury or mortality), CBS will immediately cease pile activities and report the incident to NMFS.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal would result in the harassment of marine mammals within the designated harassment zones due to increased noise levels during 16 days. Six days of work are dedicated to removing 280 old piles, which would emit low levels of noise into the aquatic environment if removed via a vibratory hammer. Vibratory pile driving, which also has relatively low source levels,

would occur for only 2 hours per day and there would be at least one day in between pile driving activity when installing the permanent piles. Impact pile driving would result in the loudest sound levels; however, CBS would install only 6 piles with an impact hammer (4 30-in and 2 48-in piles) to proof the pile after driving it with a vibratory hammer. Proofing a pile is relatively short-term activity with 400 strikes occurring over 10 minutes per pile. Considering this and the fact only one pile would be installed per day, if PTS occurs, it is likely slight PTS (*e.g.,* PTS onset). Due to the brief duration of expected exposure, any Level B harassment would be temporary and any behavioral changes as a result are expected to be minor.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized.
- The number of piles in the design has been reduced to the lowest amount practicable (other designs required more piles); therefore, the amount of pile activity is minimal at 16 days over the course of 3 months.
- The majority of pile driving is scheduled to occur in October prior to peak humpback whale habitat use.
- Shut-down zone mitigation designed to avoid Level A harassment of low frequency cetaceans and otariids will occur during impact pile driving.
- Extremely limited impact pile driving would occur (ten minutes per day for six non-consecutive days).
- The project and ensonified areas include a cove and dead-end bay (Silver Bay) with no significant marine mammal habitat.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the specified activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of marine mammals may be authorized to be incidentally taken under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals.

NMFS has authorized a very small amount of Level A takes of marine mammals. Level B takes are more numerous and still only constitute between 0.01 and 6.6 percent of a given stock (Table 5). For pinnipeds, the number of takes likely represents repeated exposures of a smaller number of animals; therefore, the percent of stock taken is likely even smaller. Finally, the area where these takes may occur represents a negligible area with respect to each stock's range; therefore, it is unlikely a larger percentage of a stock's population would move through the action area.

Based on the analysis contained herein of the specified activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

Alaska Natives have traditionally harvested subsistence resources, including sea lions and harbor seals. In 2012 (the most recent year for which information is available), the community of Sitka had an estimated subsistence take of 49 harbor seals and 1 Steller sea lion (Wolf *et al.* 2013). CBS contacted the Alaska Harbor Seal Commission, the Alaska Sea Otter and Steller Sea Lion Commission, and the Sitka Tribe of Alaska and these organizations expressed no concerns about the project. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

There are two marine mammal species under NMFS' jurisdiction that are listed as endangered or threatened under the ESA with confirmed or possible occurrence in the action area: the wDPS of Steller sea lions and the humpback whale Mexico DPS. NMFS issued a Biological Opinion concluding that the issuance of the IHA is likely to adversely affect, but is not likely to jeopardize, the continued existence of the threatened and endangered species under NMFS' jurisdiction and is not likely to result in the destruction or adverse modification of critical habitat. The Biological Opinion for this action is available on NMFS' Web site (*http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*).

Authorization

NMFS has issued an IHA to CBS authorizing the take of small numbers of six marine mammal species incidental to the GPIP dock modification project, Sawmill Cove, Alaska, containing the previously discussed mitigation, monitoring and reporting requirements.

Dated: October 6, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–22153 Filed 10–12–17; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the procurement list.

SUMMARY: This action deletes products and services from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* November 12, 2017.

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: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 9/8/2017 (82 FR 42546–42547), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the products and services 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 and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSN—Product Name: 2910–00–740–9419—Strap, Fuel Tank
Mandatory Source of Supply: Employment Source, Inc., Fayetteville, NC
Contracting Activity: Defense Logistics Agency Land and Maritime
NSNs—Product Names:
8410–01–414–6979—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 4 Regular
8410–01–414–6980—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 6 Regular
8410–01–414–6981—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 8 Regular
8410–01–414–7023—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 10 Regular
8410–01–414–7105—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 12 Regular
8410–01–414–7113—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 14 Regular
8410–01–414–7116—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 16 Regular
8410–01–414–7118—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 18 Regular
8410–01–414–7120—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 20 Regular
8410–01–414–7186—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 22 Regular
8410–01–414–7232—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 24 Regular
8410–01–414–7233—Shirt, Tuck-in, Army, Women's, Short Sleeved, Green, 26 Regular
Mandatory Source of Supply: Middle Georgia Diversified Industries, Inc., Dublin, GA
Contracting Activity: Defense Logistics Agency Troop Support
NSN—Product Name: 1670–00–805–3522—Strap Set, Webbing
Mandatory Source of Supply: Huntsville Rehabilitation Foundation, Huntsville, AL
Contracting Activity: Defense Logistics Agency Aviation
NSNs—Product Names:
8465–00–001–6487—Belt, Individual Equipment, Olive Drab, Large
8465–00–001–6488—Belt, Individual Equipment, LC–1, Olive Drab, Medium
8465–01–120–0674—Belt, Individual Equipment, USN/USA, LC–2, Olive Drab, Medium
8465–01–120–0675—Belt, Individual Equipment, Olive Drab, Large
Mandatory Source of Supply: Mississippi Industries for the Blind, Jackson, MS
Contracting Activity: Defense Logistics Agency Troop Support

Services

Service Type: Grounds Maintenance Service
Mandatory for: Pennington Memorial U.S. Army Reserve Center: 2164 Harding Highway East, Marion, OH
Mandatory Source of Supply: MARCA Industries, Inc., Marion, OH
Contracting Activity: Dept. of the Army, W6QM MICC Ft McCoy (RC)
Service Type: Mail and Messenger Service
Mandatory for: Headquarters, Naval Facilities Engineering Command (NAVFACENGCOM) Washington, DC
Mandatory Source of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: Dept. of the Navy, U.S. Fleet Forces Command
Service Type: Mailroom Operation Service
Mandatory for: Food and Drug Administration: 5100 Paint Branch Parkway, College Park, MD
Mandatory Source of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: Dept. of Health And Human Services/Food and Drug Administration
Service Type: Mess Attendant Service
Mandatory for: Willow Grove Naval Air Station Joint Reserve Base: Liberty Dining Hall, Horsham, PA
Mandatory Source of Supply: Occupational Training Center of Burlington County, Burlington, NJ
Contracting Activity: Dept. of the Navy, U.S. Fleet Forces Command

Patricia Briscoe,

Deputy Director, Business Operations, Pricing and Information Management.

[FR Doc. 2017–22190 Filed 10–12–17; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement for the Peckman River Basin Flood Risk Management Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers, New York District (Corps) is preparing an integrated Feasibility Report/Environmental Impact Statement (EIS) laws for the proposed Peckman River Basin Flood Risk Management Feasibility Study. The study is assessing the feasibility of flood risk management alternatives to be implemented within the congressionally authorized study area with a specific emphasis on the Township of Little Falls and the Borough of Woodland Park in Passaic County, New Jersey.

ADDRESSES: Pertinent information about the study can be found at: *http://www.nan.usace.army.mil/Missions/Civil-Works/Projects-in-New-Jersey/Peckman-River-Basin-Flood-Risk-Management-Feasibility-Study/.*

Send written comments and suggestions concerning the scope of issues to be evaluated within the EIS to Kimberly Rightler, Project Biologist/NEPA Coordinator, U.S. Army Corps of Engineers, New York District, Planning Division, Environmental, 26 Federal

Plaza, Room 2151, New York, NY 10279–0090; Phone: (917) 790–8722; email: *kimberly.a.rightler@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Questions about the overall Peckman River Basin Flood Risk Management Feasibility Study should be directed to Robert Greco, Project Manager, U.S. Army Corps of Engineers, New York District, Programs and Project Management Division, Civil Works Programs Branch, 26 Federal Plaza, Room 2127, New York, NY 10279–0090; Phone: (917) 790–8394; email: *robert.m.greco@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. Background

The U.S. Army Corps of Engineers (Corps), in partnership with the New Jersey Department of Environmental Protection (NJDEP) as the non-Federal sponsor is undertaking this study. Extensive development in the Peckman River Basin has resulted in flood damages with flooding occurring from intense thunderstorms and heavy rainfall. The District was authorized under U.S. House of Representatives Resolution Docket 2644, dated June 21, 2000 to identify recommendations in the interest of water resources development.

A Feasibility Cost Sharing Agreement (FCSA) was executed in 2002 with the NJDEP in 2002. A Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) was published in the May 14, 2004 issue of the **Federal Register** (69 FR 26811). A NEPA scoping meeting held on February 11, 2004 in Little Falls, New Jersey at the initiation of the study. The alternative analysis was completed in 2014, and non-structural improvements located within the 10 year floodplain within Little Falls, N.J. with a bypass culvert designed to mitigate the flood risk from the Peckman River and floodwalls along Great Notch Brook in Woodland Park was identified as the Tentatively Selected National Economic Development Plan. The NJDEP requested a Locally Preferred Plan that consists of a levee/floodwall system in Little Falls along with the bypass culvert for the Peckman River and floodwalls along Great Notch Brook in Woodland Park. The LPP plan will be designed to protect Little Falls and Woodland Park from the 1% annual chance exceedance (100-yr) event from the Peckman River.

2. Project Area

The project area encompasses the portion of the Peckman River, Great Notch Brook and a portion of the Passaic River located in the Township of Little Falls and the Borough of Woodland Park in Passaic County, New Jersey.

3. Public Participation

The Corps and the NJDEP are currently anticipating hosting a NEPA Scoping Meeting in late November/early December 2017. Public notices announcing the meeting date, time, location and agenda will be published in the appropriate local newspapers, Little Falls Township Web page, Borough of Woodland Park Web page and on the Corps' New York District Web page (see STUDY WEBPAGE AND **ADDRESSES**) and will be distributed to the local stakeholders and known interested parties.

A scoping comment period of 30 days will be established from the scheduled date of the meeting to allow agencies, organizations and individuals to submit comments, questions and/or concerns regarding the Feasibility Study. Comments, concerns and information submitted to the Corps will be evaluated and considered during the development of the Draft EIS.

5. Lead and Cooperating Agencies

The U.S. Army Corps of Engineers is the lead federal agency for the preparation of the environmental impact statement (EIS) and meeting the requirements of the National Environmental Policy Act and the NEPA Implementing Regulations of the President's Council on Environmental Quality (40 CFR 1500–1508). Federal agencies interested in participating as a Cooperating Agency are requested to submit a letter of intent to Colonel Thomas D. Asbery, District Engineer (see **ADDRESSES**). The preparation of the EIS will be coordinated with New Jersey State and local municipalities with discretionary authority relative to the proposed actions. The Draft integrated Feasibility Report/EIS is currently scheduled for distribution to the public March 2018.

Dated: October 3, 2017.

Peter M. Weppler,

Chief, Environmental Analysis Branch, Planning Division.

[FR Doc. 2017–21933 Filed 10–12–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meetings of the Draft Environmental Impact Statement/Overseas Environmental Impact Statement for Hawaii-Southern California Training and Testing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS). It is the role of DoN to maintain, train and equip combat ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. To fulfil its role, the DoN will continue ongoing military readiness activities, which include training and research, development, testing, and evaluation activities (hereafter referred to as ''training and testing'') conducted within the Hawaii-Southern California Training and Testing (HSTT) EIS/OEIS Study Area (hereafter referred to as the ''Study Area''). In the Draft EIS/OEIS, the DoN re-evaluates potential environmental impacts associated with training and testing in the study area. The National Marine Fisheries Service (NMFS) is a cooperating agency for this EIS/OEIS. This notice announces the dates and locations of the public meetings and provides supplementary information about the environmental planning effort.

DATES AND ADDRESSES: Public meetings will include an open-house information session, followed by a short presentation by the DoN and public oral comment session. DoN representatives will be available during the open-house information sessions to clarify information related to the Draft EIS/OEIS. Federal, state, and local agencies and officials, and interested organizations and individuals are encouraged to provide substantive comments on the Draft EIS/OEIS in writing during the public review period or in person at one of the scheduled public meetings.

Public meetings will be held in Hawaii from 4:00 to 8:00 p.m. and in San Diego from 5:00 to 8:00 p.m. A DoN presentation and public oral comment session will occur twice during the meetings. Public meetings will be held on the following dates and at the following locations:

1. Monday, November 6, 2017, at Oahu Veterans Center, Fred Ballard Hall,

1298 Kukila St., Honolulu, HI 96818.

2. Tuesday, November 7, 2017, at Maui High School, Cafeteria, 660 S. Lono Ave., Kahului, HI 96732.
3. Wednesday, November 8, 2017, at Kauai Veterans Center, Main Ballroom, 3215 Kapule Highway, Lihue, HI 96766.
4. Thursday, November 9, 2017, at Waiakea High School, Cafeteria, 155 W. Kawili St., Hilo, HI 96720.
5. Monday, November 13, 2017, at Portuguese Hall, Main Hall, 2818 Avenida de Portugal, San Diego, CA 92106.

Attendees will be able to submit oral and written comments during the public meetings. Oral comments from the public will be recorded by a court reporter and each speaker's comments will be limited to three (3) minutes. Equal weight will be given to oral and written statements. Comments may also be mailed to Naval Facilities Engineering Command Pacific, Attention: HSTT EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134, or electronically via the project Web site (*www.HSTTEIS.com*). All comments, oral or written, submitted during the 60-day public comment period will become part of the public record and substantive comments will be addressed in the Final EIS/OEIS. Comments must be postmarked or received online by December 12, 2017, for consideration in the Final EIS/OEIS.

Concurrent with the NEPA public involvement process, the DoN is conducting National Historic Preservation Act section 106 consultations regarding potential effects of the Proposed Action on historic properties. Historic properties include districts, sites, buildings, structures, or objects listed or eligible for listing in the National Register of Historic Places. During each of the meetings, an information station will be available, where subject matter experts will explain the section 106 process and solicit public input.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Pacific, Attention: HSTT EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare this Draft EIS/OEIS was published in the **Federal Register** on November 12, 2015 (80 FR 59952).

The Proposed Action is to conduct DoN training and testing activities within the Study Area. These activities include the use of active sonar and explosives while employing marine species protective mitigation measures. The purpose of the Proposed Action is to maintain a ready force, which is needed to ensure the DoN can accomplish its mission to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas, consistent with Congressional direction in Section 5062 of Title 10 of the U.S. Code (U.S.C.).

To achieve and maintain military readiness, the DoN proposes to: (1) Conduct training and testing activities at levels required to support DoN military readiness requirements beginning in 2018; and (2) Accommodate evolving mission requirements, including those resulting from the development, testing, and introduction of vessels, aircraft, and weapons systems into the fleet.

Proposed training and testing activities are similar to those that have occurred in the Study Area for decades. The tempo and types of training and testing activities fluctuate because of the introduction of new technologies, the evolving nature of international events, advances in warfighting doctrine and procedures, and changes in force structure (organization of ships, weapons, and personnel). These factors can influence the frequency, duration, intensity, and location of training and testing activities. This EIS/OEIS reflects the most up-to-date compilation of training and testing activities deemed necessary to accomplish military readiness requirements. The types and numbers of activities included in the Proposed Action account for fluctuations in training and testing to meet evolving or emergent military readiness requirements.

In the Draft EIS/OEIS, the DoN evaluates the potential environmental impacts of three alternatives, including a No Action Alternative. Under the No Action Alternative, the DoN would not conduct the proposed training and testing activities in the Study Area, and no authorizations or permits would be issued from NMFS. Under Alternative 1 (the DoN's preferred alternative), the DoN proposes to conduct military readiness training and testing activities, as needed to meet current and future readiness requirements, including new activities and activities subject to previous analysis that are ongoing and have historically occurred in the Study Area. Alternative 1 reflects a representative annual level of training and testing to account for the natural fluctuation of training cycles and deployment schedules that generally limit the maximum level of training from occurring year after year in any five-year period. Using a representative annual level of activity rather than a maximum level of training activity in every year has reduced the amount of active sonar estimated to be necessary to meet training requirements. Under Alternative 1, the DoN assumes that some unit-level training would be conducted using synthetic means (*e.g.,* simulators). Alternative 2 includes new and ongoing training and testing activities to enable the DoN to meet the highest levels of required military readiness. Alternative 2 reflects the maximum number of training and testing activities that could occur within a given year, and assumes that the maximum level of activity would occur every year over any five-year period. Alternative 2 would allow for the greatest flexibility for the DoN to maintain readiness when considering potential changes in the national security environment, fluctuations in schedules, and anticipated demands.

Additional project information, including details on the key differences between the 2013 Final EIS/OEIS and the 2017 Draft EIS/OEIS, can be found on the project Web site at *www.HSTTEIS.com.*

Minimizing impacts on the marine environment from training and testing activities is an important goal for the DoN. The DoN will implement mitigation and monitoring measures to avoid or reduce environmental impacts from naval activities. Due to the exposure of marine mammals to underwater sound from sonar and explosives, NMFS has received an application from the DoN for a Marine Mammal Protection Act Letter of Authorization and governing regulations to authorize the unintentional takes of marine mammals incidental to the activities conducted in the Study Area. In accordance with section 7 of the Endangered Species Act, the DoN will consult with NMFS and the U.S. Fish and Wildlife Service, as appropriate, on the potential impacts of training and testing activities on federally listed species. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act, the DoN will consult with NMFS on federally managed species and their managed essential fish habitat, as appropriate. As applicable, the DoN will comply with the Coastal Zone Management Act, National Historic Preservation Act, and the National Marine Sanctuaries Act.

The Draft EIS/OEIS was distributed to federal and local agencies in which the DoN consulted with. Copies of the Draft EIS/OEIS are available for public review at the following local public libraries:

1. Hawaii State Library, 478 S. King St., Honolulu, HI 96813.
2. Hilo Public Library, 300 Waianuenue Ave., Hilo, HI 96720.
3. Kahului Public Library, 90 School St., Kahului, HI 96732.
4. Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona, HI 96740.
5. Lihue Public Library, 4344 Hardy St., Lihue, HI 96766.
6. City of San Diego Central Library, 330 Park Blvd., San Diego, CA 92101.
7. Coronado Public Library, 640 Orange Ave., Coronado, CA 92118.
8. Long Beach Main Library, 101 Pacific Ave., Long Beach, CA 90822.

The HSTT Draft EIS/OEIS is available for electronic viewing or download at *www.HSTTEIS.com.* A compact disc of the Draft EIS/OEIS will be made available upon written request by contacting: Naval Facilities Engineering Command Pacific, Attention: HSTT EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860–3134.

Authority: 42 U.S.C. 4332, EO 12114, and 40 CFR 1500–1508.

Dated: October 10, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–22195 Filed 10–12–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–5–000]

Braintree Electric Light Department; Notice of Petition For Limited Waiver

Take notice that on October 5, 2017, pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(5) and section 554(e) of the Administrative Procedure Act (5 U.S.C. 554(e)), Braintree Electric Light Department filed a petition for the Commission to authorize a limited, one-time waiver of the October 1 deadline for delivery of notification to ISO New England, Inc. (ISO–NE) of its proposed participation in ISO–NE's 2017–2018 Winter Reliability Program, as more fully described in the filing.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 26, 2017.

Dated: October 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–22214 Filed 10–12–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0141; FRL–9966–70]

Certain New Chemicals or Significant New Uses; Statements of Findings for July 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(g) of the Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of TSCA section 5(a) notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA section 5. This document presents statements of findings made by EPA on TSCA section 5(a) notices during the period from July 1, 2017 to July 31, 2017.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Greg Schweer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–564–8469; email address: *schweer.greg@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0141, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William

Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the period from July 1, 2017 to July 31, 2017.

III. What is the agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or
- The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term ''conditions of use'' is defined in TSCA section 3 to mean ''the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.''

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

- EPA case number assigned to the TSCA section 5(a) notice.
- Chemical identity (generic name, if the specific name is claimed as CBI).
- Web site link to EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C).

EPA Case Number: P–17–0293; *Chemical identity:* Substituted carbomonocycle, polymer with substituted carbonomoncycles, alkyl substituted- alkanediols, alkanediol, alkanedioic acid, and dialkylene glycol; polymer exemption flag (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-73.*

EPA Case Number: P–14–0314; *Chemical identity:* Poly aliphatic phosphate (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-72.*

EPA Case Number: J–17–0008–0013; *Chemical identity:* Modified microorganism (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-71.*

EPA Case Number: P–17–0117–0118; *Chemical identity:* (P–17–0117): 1,6,10-Dodecatriene, 7,11-dimethyl-3-methylene-, (6E)-, homopolymer, 2-hydroxypropyl-terminated (CASRN: 1898242–86–8); polymer exemption flag. (P–17–0118): 1,6,10-Dodecatriene, 7,11-dimethyl-3-methylene-, (6E)-, homopolymer, 2-hydroxyethyl-terminated (CASRN: 2007163–32–6); polymer exemption flag; *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-70.*

EPA Case Number: P–17–0266; *Chemical identity:* Alcohols, C12-13-branched and linear, dimerized (CASRN: 2041102–78–5); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-69.*

EPA Case Number: P–17–0219; *Chemical identity:* Polyester of aliphatic glycols and aromatic diacids; polymer exemption flag (generic name); *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-68.*

EPA Case Number: P–17–0112; *Chemical identity:* 1,4-Benzenedicarboxylic acid, polymer with hexanedioic acid and 1,6-hexanediol (CASRN: 84191–80–0); polymer exemption flag; *Web site link: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/tsca-section-5a3c-determination-67.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 29, 2017.

Greg Schweer,

Chief, New Chemicals Management Branch, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–22249 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0451; FRL–9966–72]

Disapproval of Pesticide Product Registrations for Special Local Needs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As provided under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), State-designated lead agencies may register pesticides, within their respective States, to meet special local needs. EPA's regulations require the State lead agencies to notify EPA of such special local need registrations. EPA may disapprove any such State registration. EPA's regulations require that notice of these actions be published in the **Federal Register**; this notice identifies special local need registrations which were disapproved by EPA on July 3, 2017.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0451, is available at *http://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

Section 24(c) of FIFRA (7 U.S.C. 136v(c)) authorizes States to register ''additional uses of federally registered pesticides to meet special local needs.'' Pursuant to FIFRA section 24(c), EPA's regulations at 40 CFR 162.153(h) require States to notify EPA of such special local need registrations. EPA's regulations pertaining to such special local need registrations state that ''the Administrator may disapprove, on any reasonable grounds, any state registration which, when compared to a federally registered product, does not have . . . a similar use pattern. . . .'' 40 CFR 162.154(a)(1). The regulations define ''similar use pattern'' to mean ''a use of a pesticide . . . which is (among other things) substantially the same as the federally registered use.'' 40 CFR 162.151.

III. Disapprovals of Special Local Need Registrations

On July 3, 2017, EPA disapproved special local need registrations from the Nevada Department of Agriculture, for use on cannabis grown in Nevada, to control various insect pests, mites, and plant diseases, as follows:

1. *EPA SLN No. NV170003*—General Hydroponics Prevasyn (EPA Reg. No. 91865–1); containing Capsicum oleoresin extract, garlic oil, & soybean oil.
2. *EPA SLN No. NV170004*—General Hydroponics Exile (EPA Reg. No. 91865–2); containing potassium salts of fatty acids.
3. *EPA SLN No. NV170005*—General Hydroponics Defguard (EPA Reg. No. 91865–3); containing *Bacillus amyloliquefaciens* strain D747.
4. *EPA SLN No. NV170006*—General Hydroponics; Azamax (EPA Reg. No. 91865–4); containing azadirachtin.

Additional information may be found in the docket for this action, docket ID number EPA–HQ–OPP–2017–0451, available at *http://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center. Details on accessing the docket are given in Unit I.B. of this document.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 14, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017–22102 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0042; FRL–9968–59]

Pesticide Program Dialogue Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Environmental Protection Agency's (EPA's) Office of Pesticide Programs is announcing a public meeting of the Pesticide Program Dialogue Committee (PPDC) on November 1–2, 2017. This meeting provides advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides.

DATES: The meeting will be held on Wednesday, November 1, 2017, from 9:00 a.m. to 5:00 p.m., and Thursday, November 2, 2017, from 9 a.m. to 12:00 p.m.

Agenda: A draft agenda will be posted on or before October 18, 2017.

Accommodations requests: To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The PPDC Meeting will be held at 1 Potomac Yard South, 2777 S. Crystal Drive, Arlington, VA, in the lobby-level Conference Center.

EPA's Potomac Yard South Bldg. is approximately 1 mile from the Crystal City Metro Station.

FOR FURTHER INFORMATION CONTACT: Dea Zimmerman, Office of Pesticide Programs (L–17J), Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 353–6344; email address: *zimmerman.dea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you work in agricultural settings or if you are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996; the Pesticide Registration Improvement Act, and the Endangered Species Act. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farm worker groups; pesticide users and growers; animal rights groups; pest consultants; State, local, and tribal governments; academia; public health organizations; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0042, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Background

The PPDC is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established the PPDC in September 1995 to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. The following sectors are represented on the current PPDC: Environmental/public interest and animal rights groups; farm worker organizations; pesticide industry and trade associations; pesticide user, grower, and commodity groups; Federal and State/local/tribal governments; the general public; academia; and public health organizations.

III. How can I request to participate in this meeting?

PPDC meetings are free, open to the public, and no advance registration is required. Public comments may be made during the public comment session of each meeting or in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et. seq.*

Dated: October 3, 2017.

Arnold E. Layne,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2017–22237 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0357]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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), 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 Office of Management and Budget (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 December 12, 2017. 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 Cathy Williams, FCC, via email *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: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC 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.

OMB Control No.: 3060–0357.

Title: Recognized Private Operating Agency (RPOA), 47 CFR 63.701.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10 respondents; 10 responses.

Estimated Time per response: 2–5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(j), 201, 214 and 403.

Total Annual Burden: 35 hours.

Annual Cost Burden: $18,800.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: This collection will be submitted as an extension after the 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

The Commission requests this information in order to make recommendations to the U.S. Department of State for granting recognized private operating agency (RPOA) status to requesting entities. The Commission does not require entities to request RPOA status. Rather, this is a voluntary application process for use by companies that believe that obtaining RPOA status will be beneficial in persuading foreign governments to allow them to conduct business abroad. RPOA status also permits companies to join the International Telecommunication Union's (ITU's) Telecommunications Sector, which is the standards-setting body of the ITU.

The information furnished in RPOA requests is collected pursuant to 47 CFR 63.701 of the Commission's rules. Entities submit these applications on a voluntary basis. The collection of information is a one-time collection for each respondent. Without this information collection, the Commission's policies and objectives for assisting unregulated providers of enhanced services to enter the market for international enhanced services would be thwarted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22184 Filed 10–12–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1242]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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), 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 Office of Management and Budget (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 December 12, 2017. 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 Cathy Williams, FCC, via email *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: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC 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.

OMB Control Number: 3060–1242.

Title: Qualified 4G LTE Coverage Data Collection for Mobility Fund Phase II.

Form Number: N/A.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents and Responses: 50 respondents and 50 responses.

Estimated Time per Response: 64 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 154, 254, and 303(r) of the Communications Act, as amended, 47 U.S.C. 4, 254, 303(r).

Estimated Total Annual Burden: 3,200 hours.

Total Annual Costs: None.

Nature and Extent of Confidentiality: To information collected under this collection is confidential and will not be made publicly available.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for approval of this new information collection will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from OMB. In its November 2011 *USF/ICC Transformation Order* (FCC 11–161), the Commission established the Mobility Fund, which consists of two phases. Mobility Fund Phase I (MF–I) provided one-time universal service support payments to immediately accelerate deployment of mobile broadband services. MF–II will use a reverse auction to provide ongoing universal service support payments to continue to advance deployment of such services. The Commission adopted the rules and framework for MF–I in the *USF/ICC Transformation Order,* and sought comment in an accompanying further notice of proposed rulemaking on the proposed framework for MF–II. In its February 2017 *Mobility Fund II Report and Order* (*MF–II Report and Order*) (FCC 17–11), the FCC adopted the rules and framework for moving forward expeditiously with the MF–II auction. Among other things, the Commission stated in the *MF–II Report*

and Order that, prior to the auction, it would establish a map of areas presumptively eligible for MF–II support based on the most recently available FCC Form 477 mobile wireless coverage data, and provide a limited timeframe for parties to challenge those initial determinations during the pre-auction process.

The Commission received serval petitions for reconsideration of the *MF–II Report and Order,* including one asking it to reconsider the decision to use existing FCC Form 477 data as the basis for determining the map of areas presumptively eligible for MF–II support, and offering an industry consensus proposal asking the Commission to undertake a new, one-time data collection with specified data parameters tailored to MF–II to determine the areas in which there is deployment of qualified Long Term Evolution (LTE). On August 4, 2017, the Commission released an *Order on Reconsideration and Second Report and Order* (FCC 17–102) in which it, among other things, reconsidered its earlier decision to use FCC Form 477 data to compile the map of areas presumptively eligible for MF–II support. The Commission decided it would instead conduct a new, one-time data collection of 4G LTE coverage data that will be used for this purpose, concluding that for purposes of implementing MF–II expeditiously, this approach will provide the Commission and interested parties with the best available starting point for the challenge process and should result in fewer and more narrowly-focused challenges regarding representations of coverage.

Only those providers that have previously reported 4G LTE coverage in FCC Form 477 and have qualified 4G LTE coverage (defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent loading factor) will be required to submit data under this new, one-time information collection. Such providers will be required to file propagation maps and model details with the Commission indicating their current 4G LTE coverage in accordance with a public notice that will be issued in advance of the start of period within which providers must make their filings that provides instructions for how to file the data submission, including a data specification, formatting information, and any other technical parameters that may be necessary for such filings. The Commission will use the new coverage data, in conjunction with subsidy data available from the Universal Service Administrative Company (USAC), to create the map of areas presumptively eligible for MF–II support.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–22185 Filed 10–12–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2017.

A. Federal Reserve Bank of Minneapolis (Brendan S. Murrin, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Tradition Bancshares, Inc., Edina, Minnesota;* acquire 24 percent of the voting shares of Rock Creek Advisors, LLC, Rapid City, South Dakota, and thereby engage in investment advisory services pursuant to section 225.28(b)(6).

Board of Governors of the Federal Reserve System, October 6, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–22138 Filed 10–12–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 26, 2017.

A. Federal Reserve Bank of Minneapolis (Brendan S. Murrin, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Edward Massee and Andrew Schmidt, both of Appleton, Minnesota;* to acquire voting shares of MPS Investment Company, Appleton, Minnesota, and thereby indirectly acquire voting shares of Farmers & Merchants State Bank, Appleton, Minnesota.

Board of Governors of the Federal Reserve System, October 6, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–22137 Filed 10–12–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate

inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 2017.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Director of Applications) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *MBT Bancshares, Inc., Metairie, Louisiana*; to become a bank holding company by acquiring 100 percent of the outstanding voting shares of Metairie Bank & Trust Company, Metairie, Louisiana.

B. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *1831 Bancorp, MHC and 1831 Bancorp, Inc., both of Dedham, Massachusetts*; to become a mutual holding company and a stock bank holding company, respectively, by acquiring 100 percent of the voting shares of Dedham Institution for Savings, Dedham, Massachusetts.

C. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *Select Bancorp, Inc., Dunn, North Carolina*; to acquire 100 percent of the voting shares of Premara Financial, Inc., Charlotte, North Carolina, and thereby indirectly acquire Carolina Premier Bank, Charlotte, North Carolina.

Board of Governors of the Federal Reserve System, October 6, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–22136 Filed 10–12–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0138]

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. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March 2, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the notice. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. The Office of Management and Budget is particularly interested in comments that:

(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.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Pulmonary Function Testing Course Approval Program (OMB Control Number 0920–0138, Expired 4/30/2017)—Reinstatement with Change—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH has the responsibility under the Occupational Safety and Health Administration's Cotton Dust Standard, 29 CFR 1920.1043, for approving courses to train technicians to perform pulmonary function testing in the cotton industry. Successful completion of a NIOSH-approved course is mandatory under this Standard. In addition, regulations at 42 CFR 37.95(a) specify that persons administering spirometry tests for the national Coal Workers' Health Surveillance Program must successfully complete a NIOSH-approved spirometry training course and maintain a valid certificate by periodically completing NIOSH-approved spirometry refresher training courses. Also, 29 CFR 1910.1053(i)(2)(iv), 29 CFR 1910.1053(i)(3), 29 CFR 1926.1153(h)(2)(iv) and 29 CFR 1926.1153(h)(3) specify that pulmonary function tests for initial and periodic examinations in general industry and construction, performed under the respirable crystalline silica standard should be administered by a spirometry technician with a current certificate from a NIOSH-approved spirometry course. NIOSH is requesting a three-year approval.

To carry out its responsibility, NIOSH maintains a Pulmonary Function Training Course Approval Program. The program consists of an application submitted by potential sponsors (universities, hospitals, and private consulting firms) who seek NIOSH approval to conduct courses, and if approved, notification to NIOSH of any course or faculty changes during the approval period, which is limited to five years. The primary focus of this program is to verify that each course sponsor maintains faculty expertise and curriculum content that supports the training of technicians to perform spirometry testing under current professional clinical-practice guidelines.

NIOSH reviews the application form and added materials, including an agenda, curriculum vitae, and course materials to determine if the applicant has developed a program that adheres to the criteria required in the Standard.

Following approval, course sponsors submit any subsequent changes to the course via letter or email. In addition, NIOSH staff review subsequent changes to assure that the changes in faculty or course content continue to meet course requirements. Course sponsors also voluntarily submit an annual report to inform NIOSH of their class activity level and any faculty changes.

Sponsors who elect to have their approval renewed for an additional five-year period submit a renewal application and supporting documentation for review by NIOSH staff to ensure the course curriculum meets all current standard requirements. Approved courses that elect to offer NIOSH-Approved Spirometry Refresher Courses must submit a separate application and supporting documents for review by NIOSH staff. Institutions and organizations throughout the country voluntarily submit applications and materials to become course sponsors and carry out training. Submissions are required for NIOSH to evaluate a course and determine whether the course meets the Standard's criteria and whether technicians meet the training requirements.

NIOSH will disseminate a one-time customer satisfaction survey to course directors and sponsor representatives to evaluate our service to courses, the effectiveness of the program changes implemented since 2005, and the usefulness of potential Program enhancements. The annualized figures slightly overestimate the actual burden, due to rounding of the number of respondents for even allocation over the three-year clearance period.

The respondent burden hours have decreased from 201 burden hours to 147 burden hours. Over the last three-year period, there are fewer sponsors, fewer refresher course applications, and all collection instruments are now available in electronic submittal formats.

There will be no cost to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Potential Sponsors	Initial Application	3	1	3.5
	Annual Report	30	1	30/60
	Report for Course Changes	24	1	30/60
	Renewal Application	13	1	6
	Refresher Course Application	3	1	8
	One-time Customer Satisfaction Survey	32	1	12/60

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. 2017–22198 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17BAM; Docket No. CDC–2017–0080]

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 effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project entitled *Implementing the 6|18 Initiative: Case Studies.* CDC proposes to seek a three-year clearance to conduct semi-structured interviews with state public health department and Medicaid agency officials. CDC designed this information collection project to improve understanding of facilitators and barriers to increased utilization of evidence-based interventions for selected chronic and infectious diseases.

DATES: CDC must receive written comments on or before December 12, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0080 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.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. CDC will post, without change, all relevant comments to *Regulations.gov.* Access *Regulations.gov.*

Please note: Submit all public comments 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 Leroy A. Richardson, 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.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Proposed Project

Implementing the 6|18 Initiative: Case Studies—New—Office of the Director (OD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Major trends in health care are providing new opportunities to pay for and deliver prevention and to improve population health. New and alternative health care payment and delivery models are more patient-centered and facilitate the delivery of greater comprehensive care and prevention. Public health departments have been eager to leverage their skill sets and resources to complement those of the health care sector, to maximize impact for population health in this time of dynamic health system change and opportunity.

In this context, CDC developed the CDC's 6|18 Initiative to provide health care purchasers, payers, and providers with rigorous evidence about high-burden health conditions and associated evidence-based interventions. With a focus on the greatest short-term health and potential cost impact (generally in less than five years), the evidence informs their coverage decisions.

The name ''6|18'' comes from the initial focus on six common, costly and preventable health conditions (tobacco use, high blood pressure, diabetes, asthma, healthcare-associated infections and unintended pregnancies) and 18 evidence-based prevention and control interventions, which form the content of dialogue with health care purchasers, payers and providers. More information on the Initiative content and progress can be found at *http://www.cdc.gov/sixeighteen.*

The *6|18* initiative links the health care and public health sectors by providing a shared focus across a spectrum of prevention interventions, from traditional clinical settings to care outside the clinical setting. Public health's strength in identifying and analyzing scientific evidence complements the purchaser, payer, and provider role of financing and delivering care.

Since cross-sector public health-health care collaboration to improve population health is still not a standard practice, information regarding public-payer collaboration with public health agencies is scarce. There are few or no case studies related to public health-health care collaboration around increasing preventive service utilization. CDC intends to fill this knowledge gap through this data collection effort.

As part of the 6|18 Initiative, CDC and its partners (Center for Health Care Strategies, Inc. (CHCS) and the Centers for Medicare and Medicaid Services (CMS)) provided technical assistance to state teams (*i.e.,* State Medicaid and Public Health Agencies), to support and accelerate their implementation of the 6|18 Initiative's interventions. In Year 1 of the 6|18 Initiative (2016), CDC and its partners worked with nine state teams. In Year 2 (2017), CDC and its partners will work with 8 new teams from 6 states, the District of Columbia, and a large city (hereafter, ''states''). No data has been collected to date.

To document qualitative lessons learned related to the collaboration, CDC and its cooperative agreement sub-contractor, George Washington University, plan to conduct in-person and telephone semi-structured individual interviews with state Public Health Department and State Medicaid Agency officials.

Interview participants will have been directly involved in conceptualizing, planning, and/or implementing 6|18 Initiative-related activities, and will have participated in the cross-sector collaboration. CDC plans to engage up to 82 respondents (four to seven officials from each of the 17 state teams who participated in the *6|18 Initiative*). The officials from each state team will be leadership and staff from public health agencies at the state, city, and tribal level. For each state, we will request interviews with: One Public Health Division Director, one to four Public Health Services Managers (one per health condition), one Medicaid Director, and one Medicaid Services Manager. When joining the 6|18 Initiative, each state selected one to four conditions from the list of 6|18 conditions, and assigned one public health manager to each condition.

CDC plans to administer the interviews from 2018 to 2021, to allow time for unanticipated delays; and to accommodate state team schedules, busy seasons, and holidays. All participants will speak in their official capacity as state public health department or Medicaid agency officials. Prior to granting public access to written products, CDC will provide participants the opportunity to review written products.

CDC anticipates using the interview findings: (1) To describe, disseminate, and scale best practices to participating and non-participating states, and (2) for program improvement of the CDC's 6|18 Initiative. CDC will disseminate findings via written products such as peer-reviewed manuscripts and in-depth written case studies. The written products, which will share lessons learned and effective approaches to collaboration, can inform and potentially accelerate related efforts by other state teams. In addition, *6|18* participants can use findings and written products to highlight their accomplishments to their stakeholders, such as their Medicaid leadership, and/or governors.

Participants will have a maximum estimated burden of one hour and 15 minutes: One hour for the interview, and fifteen minutes for any needed preparation. CDC will base all interviews on the same interview guide.

CDC will seek a three-year OMB approval for this information collection project. CDC estimates that they will conduct 29 interviews per year. Participation is voluntary and respondents will not receive incentives for participation. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Public Health Director	Interview Guide	6	1	75/60	8
State Public Health Manager	Interview Guide	11	1	75/60	14
State Medicaid Director	Interview Guide	6	1	75/60	8
State Medicaid Manager	Interview Guide	6	1	75/60	8
Total					38

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. 2017–22200 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–0621; Docket No. CDC–2017–0092]

Proposed Data Collections 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 revision of the information collection project entitled *National Youth Tobacco Surveys (NYTS) 2018–2020,* which aims to collect data on tobacco use among middle- and high school students.

DATES: Written comments must be received on or before December 12, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0092 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.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. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all Federal comments 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 Leroy A. Richardson, 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 the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

National Youth Tobacco Surveys (NYTS) 2018–2020 (OMB Control Number 0920–0621, expires 01/31/2018)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tobacco use is the leading cause of preventable disease and death in the United States, and nearly all tobacco use begins during youth and young adulthood. A limited number of health risk behaviors, including tobacco use, account for the overwhelming majority of immediate and long-term sources of morbidity and mortality. Because many health risk behaviors are established during adolescence, there is a critical need for public health programs directed towards youth, and for information to support these programs.

Since 2004, the Centers for Disease Control and Prevention (CDC) has periodically collected information about tobacco use among adolescents (National Youth Tobacco Survey (NYTS) 2004, 2006, 2009, 2011, 2012, 2013–2017, OMB Control Number 0920–0621). This surveillance activity builds on previous surveys funded by the American Legacy Foundation in 1999, 2000, and 2002.

At present, the NYTS is the most comprehensive source of nationally representative tobacco data among students in grades 9–12, moreover, the

NYTS is the only source of such data for students in grades 6–8. The NYTS has provided national estimates of tobacco use behaviors, information about exposure to pro- and anti-tobacco influences, and information about racial and ethnic disparities in tobacco-related topics. CDC uses the information collected through the NYTS to identify trends over time, to inform the development of tobacco cessation programs for youth, and to evaluate the effectiveness of existing interventions and programs.

CDC plans to request OMB approval to conduct additional cycles of the NYTS in 2018, 2019, and 2020. CDC will conduct the survey among nationally representative samples of students attending public and private schools in grades 6–12, and administer to students either as an optically scannable booklet of multiple-choice questions or as a digitally-based survey. CDC will also collect information supporting the NYTS from state-, district-, and school-level administrators and teachers. During the 2018–2020 timeframe, changes will be incorporated that reflect CDC's ongoing collaboration with FDA and the need to measure progress toward meeting strategic goals established by the Family Smoking Prevention and Tobacco Control Act. Information collection will occur annually and may include a number of new questions, as well as increased representation of minority youth.

The survey will examine the following topics: Use of cigarettes, cigars, smokeless tobacco, electronic cigarettes, hookahs, pipes, bidis, snus, and dissolvable tobacco products; knowledge and attitudes; media and advertising; access to tobacco products and enforcement of restrictions on access; secondhand smoke including e-cigarette aerosol exposure; provision of school- and community-based interventions, and cessation.

CDC will continue to use the results of the NYTS to inform and evaluate the National Comprehensive Tobacco Control Program; provide data to inform the Department of Health and Human Service's Tobacco Control Strategic Action Plan, and provide national benchmark data for state-level Youth Tobacco Surveys. CDC also expects the information collected through the NYTS to provide multiple measures and data for monitoring progress on six of the 20 tobacco-related objectives (TU–2, 3, 7, 11, 18, and 19) for Healthy People 2020.

CDC seeks to request a three-year OMB approval. There are no costs 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)
State Administrators	State-level Recruitment Script for the NYTS.	38	1	30/60	19
District Administrators	District-level Recruitment Script for the NYTS.	153	1	30/60	77
School Administrators	School-level Recruitment Script for the NYTS.	240	1	30/60	120
Teachers	Data Collection Checklist	973	1	15/60	243
Students	National Youth Tobacco Survey	24,000	1	45/60	18,000
	Testing Activities	150	1	31/60	78
Total					18,537

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. 2017–22202 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0728]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Notifiable Diseases Surveillance System to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 26, 2016 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(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 agency's 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*. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW.,

Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Notifiable Diseases Surveillance System (0920–0728, January 31, 2019)—Revision—Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Public Health Services Act (42 U.S.C. 241) authorizes CDC to disseminate nationally notifiable condition information. The National Notifiable Diseases Surveillance System (NNDSS) is based on data collected at the state, territorial and local levels as a result of legislation and regulations in those jurisdictions that require health care providers, medical laboratories, and other entities to submit health-related data on reportable conditions to public health departments. These reportable conditions, which include infectious and non-infectious diseases, vary by jurisdiction depending upon each jurisdiction's health priorities and needs. Infectious disease agents and environmental hazards often cross geographical boundaries. Each year, the Council of State and Territorial Disease Epidemiologists (CSTE), supported by CDC, determines which reportable conditions should be designated nationally notifiable or under standardized surveillance and voluntarily submitted to CDC so that information can be shared across jurisdictional boundaries and surveillance and prevention and control activities can be coordinated at regional and national levels.

CDC requests a three-year approval for this Revision, which includes requests to receive: (1) Case notification data from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau (independent nations that operate under a Compact of Free Association with the United States of America that are commonly referred to as ''freely associated states''); (2) new laboratory data elements for all conditions; (3) new data elements for all vaccine-preventable diseases (VPDs); (4) new data elements for the following conditions that are already approved: Congenital Rubella Syndrome (CRS), Salmonellosis, Shigellosis, Campylobacteriosis, Shiga toxin-producing Escherichia coli (STEC), Hepatitis, and Hantavirus Pulmonary Syndrome (HPS); (5) case notification data for histoplasmosis which is now under standardized surveillance; (6) case notification data for Acute Flaccid Myelitis (AFM) which is now under standardized surveillance; and (7) case notification data for all enteric Escherichia coli infections should any of them become nationally notifiable or be placed under standardized surveillance. CDC already has approval to receive case notification data for STEC, which is nationally notifiable.

The burden estimates include the number of hours that the public health department uses to process and send case notification data from their jurisdiction to CDC. Specifically, the burden estimates include separate burden hours incurred for automated and non-automated transmissions, separate weekly burden hours incurred for modernizing surveillance systems as part of NNDSS Modernization Initiative (NMI) implementation, separate burden hours incurred for annual data reconciliation and submission, and separate one-time burden hours incurred for the addition of new diseases and data elements. These estimates are based on information from CDC employees that manage the NMI effort and conduct site visits to provide technical assistance to help the public health departments modernize their surveillance systems. The estimated annual burden is 18,529 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
States	Weekly (Automated)	50	52	20/60
States	Weekly (Non-automated)	10	52	2
States	Weekly (NMI Implementation)	50	52	4
States	Annual	50	1	75
States	One-time Addition of Diseases and Data Elements	50	1	8
Territories	Weekly (Automated)	1	52	20/60
Territories	Weekly, Quarterly (Non-automated)	5	56	20/60
Territories	Weekly (NMI Implementation)	5	52	4
Territories	Annual	5	1	5
Territories	One-time Addition of Diseases and Data Elements	1	1	10/60
Freely Associated States	Weekly, Quarterly (Non-automated)	3	56	20/60
Freely Associated States	Annual	3	1	5
Cities	Weekly (Automated)	2	52	20/60
Cities	Weekly (Non-automated)	2	52	2
Cities	Weekly (NMI Implementation)	2	52	4
Cities	Annual	2	1	75
Cities	One-time Addition of Diseases and Data Elements	2	1	8

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. 2017–22199 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–0900; Docket No. CDC–2017–0091]

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 effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled *Contact Investigation Outcome Reporting Forms,* a collection that facilitates CDC working with state and local health departments in conducting contact investigations of individuals exposed to a communicable illness during travel.

DATES: CDC must receive written comments on or before December 12, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0091 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.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. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all Federal comments 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 Leroy A. Richardson, 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 the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Contact Investigation Outcome Reporting Forms (OMB Control Number 0920–0900, Expiration 6/30/2018)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a request for revision to a currently approved information collection, OMB Control Number 0920–0900, *Contact Investigation Outcome Reporting Forms.* CDC requests a three-year approval for contact investigation outcome reporting information collection tools to continue the CDC routine contact investigation activities.

To understand which pieces of data are critical to understanding outcomes, CDC bases all revisions on reassessments of data from the past three years.

CDC proposes to collect passenger-level, epidemiologic, demographic, and health status data from state/local Health Departments and maritime operators at the conclusion of contact investigations of individuals believed to have had exposure to a communicable disease during travel. The health departments or maritime operators would obtain the CDC requested information while conducting the contact investigation according to their established policies and procedures, and would report the information to CDC on a voluntary basis. This information will assist CDC in fulfilling its regulatory responsibility to prevent the importation of communicable diseases from foreign countries (42 CFR part 71) and interstate control of communicable diseases in humans (42 CFR part 70).

CDC provides state and local health departments and maritime conveyance operators with information to notify and contact individuals and further investigate this exposure by contacting others with potential exposure to disease. However, there currently is no standardized tool or form to collect pertinent information regarding the outcome of such investigations.

To address the need to inform CDC of additional actions that may be needed to further protect public health based on the outcome of the contact investigations, CDC has developed forms to assist health departments and maritime conveyance operators in reporting to CDC. The forms are specific to the nature of the investigation: Tuberculosis (TB), Measles, Rubella, or the General form for other diseases of public health concern. The purpose of the forms is the same: To collect information to help CDC quarantine officials fully understand the extent of disease spread and transmission during travel and to inform the development and/or refinement of investigative protocols aimed at reducing the spread of communicable disease.

Respondents are state and local health departments and maritime conveyance operators. Respondents may use these standardized forms to submit data voluntarily to CDC for each individual contacted via a secure means of their choice, *e.g.,* web-based application, fax, or email.

In the past three years, CDC has used these forms to investigate TB cases on aircrafts and on cruise ships, as well as

during measles cases that have occurred in the U.S. associated with travel.

The respondents are Cruise Ship Medical Staff/Cargo Ship Managers and State/local health department staff.

There is no cost to respondents other than their time to complete the form and submit the data to CDC.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Cruise Ship Physicians/ Cargo Ship Managers.	Clinically Active TB Contact Investigation Outcome Reporting Form—Maritime.	15	1	20/60	5
	Varicella Investigation Outcome Reporting Form	29	1	20/60	10
	Influenza Like Illness Investigation Outcome Reporting Form.	45	1	20/60	15
State/Local public health staff.	General Contact Investigation Outcome Reporting Form—Air.	34	1	5/60	3
	TB Contact Investigation Outcome Reporting Form—Air.	547	1	5/60	46
	Measles Contact Investigation Outcome Reporting Form—Air.	324	1	5/60	27
	Rubella Contact Investigation Outcome Reporting Form—Air.	27	1	5/60	3
	General Contact Investigation Outcome Reporting Form—Land.	15	1	5/60	2
Total					111

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. 2017–22206 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17BBV; Docket No. CDC–2017–0085]

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 ''Online training for law enforcement to reduce risks associated with shift work and long work hours''. This study will develop and pilot test a new, online, interactive training program tailored for the law enforcement community that relays the health and safety risks associated with shift work, long work hours, and related workplace sleep issues and presents strategies for managers and officers to reduce these risks.

DATES: CDC must receive written comments on or before December 12, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0085 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. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments 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 Leroy A. Richardson, 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 the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Online Training for Law Enforcement to Reduce Risks Associated with Shift Work and Long Work Hours—NEW—National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Law enforcement officers work in stressful and dangerous conditions to enforce law and order, prevent crime, and protect persons and property. Police often work during the evening, at night, and sometimes irregular and long hours. Shift work and long work hours are linked to many health and safety risks due to disturbances to sleep, circadian rhythms, and personal relationships. These work schedules and inadequate sleep are likely critical contributors to the many health problems seen in police: shorter life spans, high occupational injury rates, and burden of chronic illnesses. One important strategy to reduce these risks is training programs to inform employers and law enforcement officers about the risks and strategies to reduce the risks. This is a new Information Collection Request for 1 year of data collection. The Occupational Safety and Health Act of 1970 authorizes the National Institute for Occupational Safety and Health to carry out this data collection.

The purpose of this project is to develop a training program to relay the risks linked to shift work and long work hours and give workplace strategies for employers and personal strategies for the officers to reduce the risks. Once finalized, the training will be available on the NIOSH Web site.

The training will be pilot tested with 30 recent graduates of a police academy in their first field experience and 30 experienced officers. CDC will recruit sixty law enforcement officers during a 15-minute phone call. All will work full time on fixed night shifts. The pilot test will use a pretest and posttest design to examine sleep (both duration and quality), worktime sleepiness, and knowledge retained. Pre-test measures will be collected 2 weeks before the training. CDC will collect post-test measures the week of the training, 1 week after the training and at 8 and 9 weeks after the training. Additional post-test measures will include feedback about the training and if specific behaviors changed.

Before starting the pretest, the respondent will sign an informed consent form. The pilot pre-test will start with the respondent filling out a 10 minute online survey that includes four short surveys: (1) Demographic information and work experience; (2) the Epworth Sleepiness Scale; (3) the Pittsburgh Sleep Quality Index; and (4) a knowledge test. The respondent will be fitted with a wrist actigraph, which will record activity and estimate the times of sleep. The respondents will keep an online sleep activity diary and wear the actigraph continuously during weeks 1 to 4 of the study. The online sleep activity diary takes approximately 2 minutes a day to complete. The sleep diary and actigraph are being used together to obtain a more accurate timing of respondent's sleep and activity.

During the third week of the study, the respondent will participate in a 3.5-hour online training program. Immediately after completing the training, the respondent will take the post-test knowledge test and will provide feedback about the training, to include barriers to using the training information and what influential people in their life would want them to do with the training information. At the end of week 4, the respondent will return the actigraph. No data collection will occur during weeks 5 to 9 of the study.

The second post-test period will be weeks 11 and 12 of the study (weeks 8 and 9 after the training) to gather longer-term outcomes. At the beginning of week 11, the respondents will be fitted with another ACTi graph. The respondent will wear the ACTi graph and complete the sleep activity diary for the next 14 days. At the end of week 12 of the study, respondent will complete the Epworth Sleepiness Scale, Pittsburgh Sleep Quality Index, and Changes in Behaviors after Training. The combined response time is 5 minutes. The respondent will return the ACTi graph and study ends.

The burden table lists three 10-minute meetings during the post-test period when they will return the ACTi graph at the end of week 4, be fitted with an ACTi graph at the beginning of week 11 and return it at the end of week 12. The respondents will complete the sleep activity diary for 42 days total for 2 minutes each day. The total burden hours is 84.

CDC will use the findings from the pilot test to make improvements to the training program. The research team will reinforce or expand training content that showed less than desired results on the pilot test. Potential impacts of this project include improvements in management practices such as the design of work schedules and improvements in officers' personal behaviors for coping with the demands of shift work and long work hours. The total estimated annualized burden hours is 389. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Law enforcement officers	Initial phone call to recruit participation.	60	1	15/60	15
Law enforcement officers	Informed consent	60	1	10/60	10
Law enforcement officers	Knowledge survey	60	5	5/60	25
Law enforcement officers	Epworth Sleepiness Scale	60	2	1/60	2
Law enforcement officers	Pittsburgh Sleep Quality Index	60	2	2/60	4
Law enforcement officers	Demographics and work experience	60	1	2/60	2
Law enforcement officers	Sleep diary	60	42	2/60	84
Law enforcement officers	Online training	60	1	3.5	210
Law enforcement officers	Feedback about Training, Barriers, and Influential People.	60	1	5/60	5
Law enforcement officers	Changes in Behaviors after Training	60	1	2/60	2

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Law enforcement officers	Actigraph fitting and return	60	3	10/60	30
Total					389

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. 2017–22201 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–17ND]

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. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 10, 2017 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. The Office of Management and Budget is particularly interested in comments that:

(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.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Annual Progress Report (APR) for Injury Control Research Centers (ICRC)—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Injury Control Research Centers (ICRCs) form a national network of ten comprehensive academic research centers that focus on three core functions: Research, training, and outreach. ICRCs are on the scientific front line conducting cutting-edge, multidisciplinary research on the causes, outcomes, and prevention of injuries and violence.

ICRC research focuses on issues of local and national importance including motor vehicle injuries; interpersonal violence and suicide; opioid overdoses; older adult falls; and traumatic brain injuries. ICRCs work with states and communities to ensure research is put into action to prevent injuries and violence. They provide technical assistance to disseminate and translate research findings which leads to increased awareness and influences action. ICRCs play a critical role training and developing the current and next generation of researchers and public health professionals. This helps ensure there is an adequate supply of qualified practitioners and researchers to advance prevention research, address new problems, and reach new populations across the nation.

The CDC seeks OMB approval for three years to collect Annual Progress Report (APR) information from 10 grantees funded under Grants for Injury Control Research Centers (ICRC). ICRC awardees will report activity information to CDC annually using three fillable electronic templates. The first Word-based template is the principal tool for the Indicators Data Collection (IDC), which is based on a set of program activity indicators and key ICRC evaluation questions. The second Word-based template collects information about non-CDC-funded studies, and the third template, which is Excel-based, collects information about ICRC personnel and publications. Information will be reported electronically to the NCIPC for program monitoring, and hard copies will be submitted to CDC's Office of Financial Resources (OFR). Together, the tools describe grantees' annual goals, objectives, progress, and performance towards overall cooperative agreement aims. The tools also describe how grantees implement and use evidence-based injury prevention and control strategies.

Information to be collected will provide crucial data for program performance monitoring, will allow CDC to analyze and synthesize information from grantees, help ensure consistency in documenting progress and technical assistance, enhance accountability of the use of federal funds, and provide timely reports as frequently requested by the Department of Health and Human Services, the White House, and Congress.

Submission of the Annual Progress Report is required for cooperative agreement grantees. The total estimated annualized burden hours are 500. 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	Average burden per response (in hours)
Injury Control Research Center (ICRC) Grantees.	ICRC Indicators Data Collection	10	1	20
(ICRC) Grantees	ICRC Indicators Data Collection: Non-CDC Study Supplement.	10	1	10
	ICRC Personnel and Publication Excel Data Collection.	10	1	20

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. 2017–22197 Filed 10–12–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10305]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by December 12, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10305 Medicare Part C and Part D Data Validation (42 CFR 422.516(g) and 423.514(g))

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Part C and Part D Data Validation (42 CFR 422.516(g) and 423.514(g)); *Use:* Medicare Part C and Part D sponsoring organizations (Medicare Advantage Organizations), must submit Medicare Part C, Medicare Part D, or Medicare Part C and Part D data (depending on the type of contracts they have in place with CMS). In order for the reported data to be useful for monitoring and performance measurement, the data must be reliable, valid, complete, and comparable among sponsoring organizations. To maintain the independence of the validation process, sponsoring organizations are responsible for hiring external, independent data validation contractors (DVCs) who meet a minimum set of qualifications and credentials. For the retrospective review in 2018, the DVCs will review data submitted by sponsoring organizations for CY2017. The main changes for the 2018 DV are to eliminate the Part C/D reporting section Sponsor Oversight of Agents and adding the Part D reporting section Improving Drug Utilization Review

Controls. *Form Number:* CMS–10305 (OMB control number: 0938–1115); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 574; *Total Annual Responses:* 574; *Total Annual Hours:* 24,050. (For policy questions regarding this collection contact Maria Sotirelis at 410–786–0552.)

Dated: October 10, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–22207 Filed 10–12–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5913]

Assessing User Fees Under the Prescription Drug User Fee Amendments of 2017; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Assessing User Fees Under the Prescription Drug User Fee Amendments of 2017.'' This draft guidance concerns FDA's implementation of the Prescription Drug User Fee Amendments of 2017 and certain proposed changes in policies and procedures surrounding its application.

DATES: Submit either electronic or written comments on the draft guidance by December 12, 2017 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5913 for ''Assessing User Fees Under the Prescription Drug User Fee Amendments of 2017; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Peter Chen, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Rm. 2185, Silver Spring, MD 20993, 240–402–8605, *Peter.Chen@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Assessing User Fees Under the Prescription Drug User Fee Amendments of 2017.'' This draft

guidance concerns the implementation of the Prescription Drug User Fee Amendments of 2017 (PDUFA VI) and certain proposed changes in policies and procedures surrounding its application. Because PDUFA VI created significant changes to the user fee program, this draft guidance serves to provide an explanation about the new fee structure and types of fees for which applicants are responsible.

PDUFA VI provides two different fee types that applicants pay: application and program fees. This draft guidance describes when these fees are incurred and the process for which applicants can submit payments. The draft guidance also provides information on consequences of failing to pay PDUFA VI fees as well as the process for submitting a reconsideration and appeals request.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on assessing user fees under the Prescription Drug User Fee Amendments of 2017. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22192 Filed 10–12–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–5974]

"Determining Whether To Submit an Abbreviated New Drug Application or a 505(b)(2) Application;" Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Determining Whether to Submit an ANDA or a 505(b)(2) Application.'' This guidance is intended to serve as a foundational guidance to assist applicants in determining which one of the abbreviated approval pathways under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) is appropriate for the submission of a marketing application to FDA.

DATES: Submit either electronic or written comments on the draft guidance by December 12, 2017 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–5974 for ''Determining Whether to Submit an ANDA or a 505(b)(2) Application.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the

docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Giaquinto Friedman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Rm. 1670, Silver Spring, MD 20993, 240–402–7930, *elizabeth.giaquinto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Determining Whether to Submit an ANDA or a 505(b)(2) Application.'' This guidance is intended to serve as a foundational guidance to assist applicants in determining which one of the abbreviated approval pathways under the FD&C Act is appropriate for the submission of a marketing application to FDA. This guidance highlights criteria for submitting applications under the abbreviated approval pathways described in section 505(j) and 505(b)(2) of the FD&C Act (21 U.S.C. 355(j) and 21 U.S.C. 355(b)(2), respectively), identifies considerations to help potential applicants determine whether an application would be more appropriately submitted under section 505(j) or under section 505(b)(2) of the FD&C Act, and provides direction to potential applicants on requesting assistance from FDA in making this determination.

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the Hatch-Waxman Amendments) added section 505(b)(2) and 505(j) of the FD&C Act, which describe abbreviated approval pathways for drug products regulated by the Agency under the FD&C Act. The Hatch-Waxman Amendments reflect Congress's efforts to balance the need to ''make available more low cost generic drugs by establishing a generic drug approval procedure'' with new incentives for drug development in the form of exclusivities and patent term extensions. With the passage of the Hatch-Waxman Amendments, the FD&C Act describes different routes for obtaining approval of two broad categories of drug applications: New drug applications (NDAs) and abbreviated new drug applications (ANDAs).

This guidance focuses on those applications that can be submitted as ANDAs under section 505(j) of the FD&C Act, petitioned ANDAs under section 505(j)(2)(C) of the FD&C Act, or NDAs under section 505(b)(2) of the FD&C Act. This guidance does not discuss stand-alone NDAs.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on factors for applicants to consider when determining whether to submit an ANDA or a 505(b)(2) application. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 314.94 have been approved under OMB control number 0910–0001. The collection of information for controlled correspondence and pre-ANDA meeting requests has been approved under OMB control number 0910–0797.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated October 10, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22196 Filed 10–12–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5991]

Agricultural Biotechnology Education and Outreach Initiative; Public Meetings; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meetings; request for comments.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the following public meetings entitled ''Agricultural Biotechnology Education and Outreach Initiative.'' The purpose of the public meetings is to provide the public with an opportunity to share information, experiences, and suggestions to help inform the development of this education and outreach initiative.

DATES: The public meetings will be held on November 7, 2017, in Charlotte, North Carolina, and on November 14, 2017, in San Francisco, California. Submit either electronic or written comments by November 17, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meetings will be held at:

- The Omni Charlotte, 132 East Trade St., Charlotte, NC 28202 on November 7, 2017, and
- The San Francisco Marriott Marquis, 780 Mission St., San Francisco, CA 94103 on November 14, 2017.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 17, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 17, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–5991 for ''Agricultural Biotechnology Education and Outreach Initiative; Public Meetings; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: *For questions regarding registration to attend a meeting:* Simone Katz, Strategic Results, 101 Lakeforest Blvd., Suite 390, Gaithersburg, MD 20877, 240–449–8427, *simone.katz@strategicresults.com. For all other questions:* Juanita Yates, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1731, *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Consolidated Appropriations Act, 2017 (Pub. L. 115–31) stipulates that the Commissioner of Food and Drugs, in coordination with the Secretary of Agriculture, will use appropriated funds to provide consumer outreach and education regarding agricultural biotechnology and biotechnology-derived food products and animal feed, including through publication and distribution of science-based educational information on the environmental, nutritional, food safety, economic, and humanitarian impacts of such biotechnology.

FDA is responsible for promoting and protecting the public health, including by ensuring that the nation's food supply is safe and nutritious. FDA provides information and outreach to a variety of audiences along with extensive, hands-on food safety and nutrition education programs for educators, health professionals, and consumers. Educational materials are targeted to consumers in general, as well as to specific groups such as children/youth, older Americans, underserved populations, individuals with weakened immune systems (related to food safety), pregnant women, and other subpopulations.

To further our public health mission, we develop food safety and nutrition outreach initiatives in conjunction with non-Federal organizations and individuals, including teachers, community leaders, health educators, animal owners, and private and public health professionals, to increase awareness of and provide education on food safety and nutrition.

In developing and implementing the Agricultural Biotechnology Education and Outreach Initiative, FDA will coordinate with the U.S. Department of Agriculture (USDA). We also will collaborate with other U.S. Federal Government Agencies, and public and private organizations as needed. These interactions will help us to develop a comprehensive and thorough framework for consumer education and awareness of the environmental, nutritional, food safety, economic, and humanitarian impacts of agricultural biotechnology. We believe public comment will be helpful to inform the development of this education and outreach initiative.

II. Topics for Discussion at the Public Meetings

FDA is holding two public meetings, one in North Carolina and one in California, to provide the public with an opportunity to provide comments related to FDA's Agricultural Biotechnology Education and Outreach Initiative. We invite the public to share information, experiences, and suggestions that can help inform the development of the education and outreach initiative. We invite interested persons, including those participating in the public meetings, to respond to the following questions specifically regarding agricultural biotechnology and biotechnology-derived food products and animal feed:

1. What are the specific topics, questions, or other information that consumers would find most useful, and why?

2. Currently, how and from where do consumers most often receive information on this subject?

3. How can FDA (in coordination with USDA) best reach consumers with science-based educational information on this subject?

The comments received will help FDA identify education goals, messaging, and dissemination strategies

for FDA's Agricultural Biotechnology Education and Outreach Initiative.

III. Participating in the Public Meeting

Registration: To register for a public meeting, please include your name, title, firm name, address, and phone and fax numbers in your registration information and send to: Simone Katz, Strategic Results, 101 Lakeforest Blvd., Suite 390, Gaithersburg, MD 20877, 240–449–8427, Fax: 240–641–9042, email: *simone.katz@strategicresults.com.* You can register for one or both meetings.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by October 30, 2017, for the Charlotte, NC, meeting and must register by November 6, 2017, for the San Francisco, CA, meeting. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted.

If you need special accommodations due to a disability, please contact Simone Katz, Strategic Results, 101 Lakeforest Blvd., Suite 390, Gaithersburg, MD 20877, 240–449–8427, Fax: 240–641–9042, email: *simone.katz@strategicresults.com* no later than October 20, 2017, for the Charlotte, NC, meeting and no later than October 27, 2017, for the San Francisco, CA, meeting.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by October 24, 2017, for the meeting in Charlotte, NC, and by November 1, 2017, for the meeting in San Francisco, CA. All requests to make oral presentations must be received by October 20, 2017, for the meeting in Charlotte, NC, and by October 27, 2017, for the meeting in San Francisco, CA.

Streaming Webcast of the Public Meeting: Each public meeting will also be webcast. Individuals who wish to participate by webcast are asked to preregister at: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of each public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Other Issues for Consideration: A summary of key information on participating in a meeting follows:

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING

Date	Address	Preregister	Electronic address	Request to make an oral presentation	Special accommodations	Submit either electronic or written comments
November 7, 2017, from 8:30 a.m. to 1 p.m. EST.	Omni Charlotte Hotel, 132 E Trade St., Charlotte, NC 28202.	October 30, 2017: Closing date for registration.	Please preregister at *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*	October 20, 2017.	October 20, 2017: Closing date to request special accommodations due to a disability.	Submit Comments by November 17, 2017, to: *https://www.regulations.gov,* or Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
November 14, 2017, from 8:30 a.m. to 1 p.m. PST.	San Francisco Marriott Marquis, 780 Mission St., San Francisco, CA 94103.	November 6, 2017: Closing date for registration.	Please preregister at *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*	October 27, 2017.	October 27, 2017: closing date to request special accommodations due to a disability.	Same as above.

You may also register via email, mail, or fax. Please include your name, title, firm name, address, and phone and Fax numbers in your registration information and send to: Simone Katz, Strategic Results, 101 Lakeforest Blvd., Suite 390, Gaithersburg, MD 20877, 240–449–8427, Fax: 240–641–9042, email: *simone.katz@strategicresults.com.*

Individuals who wish to participate by webcast are asked to preregister at: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Dated: October 6, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22172 Filed 10–12–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5953]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on December 12, 2017, from 8 a.m. to 6 p.m.

ADDRESSES: Hilton Washington DC North/Gaithersburg, salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

FOR FURTHER INFORMATION CONTACT: Sara J. Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G616, Silver Spring, MD 20993–0002, 301–796–7047, *Sara.Anderson@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On December 12, 2017, the committee will discuss, make recommendations, and vote on information regarding the premarket approval application (PMA) for the Barricaid Anular Closure Device by Intrinsic Therapeutics. The proposed Indication for Use, as stated in the PMA, is as follows: The Barricaid is intended to be implanted following a limited discectomy, to prevent reherniation and the recurrence of pain or dysfunction. The Barricaid is indicated for patients with radiculopathy (with or without back pain), a posterior or posterolateral herniation, characterized by radiographic confirmation of neural compression using magnetic resonance imaging, and a large anular defect (*e.g.,* between 4–6 mm tall and between 6–12 mm wide) post discectomy, at one level between L4 and S1.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm. S*croll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before December 1, 2017. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 3, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 9, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 6, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–22174 Filed 10–12–17; 8:45 am]

BILLING CODE 4164–01–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.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the patent applications listed below may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: This notice is 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. A description of the technology follows.

Derivatives of Docosahexaenoylethanolamide (DEA) for Neurogenesis

The invention pertains to derivatives of docosahexaenoylethanolamide (synaptamide or DEA) and their use in inducing neurogenesis, neurite growth, and/or synaptogenesis. As such, these DEA derivatives can be used as therapeutics for neurodegenerative diseases such as traumatic brain injury, spinal cord injury, peripheral nerve injury, stroke, multiple sclerosis, autism, Alzheimer's disease, Huntington's disease, Parkinson's disease, amyotrophic lateral sclerosis. The DEA derivatives of the invention have increased potency and hydrolysis resistance as compared to native DEA. Docosahexaenoic acid (DHA), an n-3

polyunsaturated fatty acid accumulates in the brain during development, and has been implicated in learning and memory development. DEA, a metabolite derived from DHA, also has been shown to accelerate neuronal growth and development. In vitro studies in which neural progenitor cells were treated with DEA derivatives showed an increase in the number of somatic neurons produced after differentiation.

Potential Commercial Applications

- Neurogenesis,
- Neurite growth,
- Synaptogenesis,
- Therapeutics for traumatic brain injury, spinal cord injury, peripheral nerve injury, stroke, multiple sclerosis, autism, Alzheimer's disease, Huntington's disease, Parkinson's disease, and amyotrophic lateral sclerosis.

Inventors: Erika Englund (NCATS), Juan Marugan (NCATS), Samarjit Patnaik (NCATS), Hee-Yong Kim (NIAAA).

Intellectual Property: HHS Reference No. E–070–2012/0, U.S. Provisional Patent Application 61/624,741 filed April 16, 2012 (expired), International Patent Application PCT/US2013/032333 filed March 15, 2013 (expired), U.S. Patent 9,422,308; German Patent 602013016154.2, French Patent 2847178, and UK Patent 2847178.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@nih.gov*.

Dated: October 5, 2017.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development .

[FR Doc. 2017–22146 Filed 10–12–17; 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, 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; Immune System Plasticity in Dental, Oral, and Craniofacial Diseases.
Date: November 1, 2017.
Time: 2:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–263: Innovation for HIV Vaccine Discovery.
Date: November 3, 2017.
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: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epidemiology, Ethical and Population Sciences.
Date: November 3, 2017.
Time: 2:30 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: Gniesha Yvonne Dinwiddie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20892, *dinwiddiegy@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Systems Science and Health in the Behavioral and Social Science.
Date: November 7, 2017.
Time: 1:00 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: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Improving Smoking Cessation in Socioeconomically Disadvantaged Populations via Scalable Interventions.
Date: November 7, 2017.
Time: 1:00 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: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences.
Date: November 8–9, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Martha Garcia, Ph.D., Scientific Reviewer Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, MSC 7818, Bethesda, MD 20892, 301–435–1243, *garciamc@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling, and Biodata Management.
Date: November 8, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pathophysiology of Neurodevelopmental Disorders.
Date: November 8, 2017.
Time: 11:00 a.m. to 2:00 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: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–171: Cancer Tissue Engineering Collaborative Research.
Date: November 8, 2017.
Time: 12:00 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 (Virtual Meeting).

Contact Person: Angela Y Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pregnancy, Placentation, and Neonatology.

Date: November 9, 2017.

Time: 1:00 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 (Virtual Meeting).

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@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: *October 6, 2017.*

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22139 Filed 10–12–17; 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.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the patent applications listed below may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: This notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve 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. A description of the technology follows.

Small Interfering RNA Inhibition of Cannabanoid-1 Receptor (CB1R) for Treating Type 2 Diabetes

Description of Technology: The invention pertains to the use of glucan encapsulated non-immunostimulatory small interfering RNAs (siRNAs) to treat type-2 diabetes. Endocannabinoids (EC) are lipid signaling molecules that act on the same cannabinoid receptors that recognize and mediate the effects of endo- and phytocannabanoids. EC receptor CB1R activation is implicated in the development of obesity and its metabolic consequences, including insulin resistance and type 2 diabetes. Beta-cell loss has been demonstrated in a Zucker diabetic fatty (ZDF) rat model of type-2 diabetes through CB1R-mediated activation of a macrophage-mediated inflammatory response. Conversely, rats treated with a peripheral CB1R antagonist restores normoglycemia and preserves beta-cell function. Similar results are seen following selective in vivo knockdown of macrophage CB1R by daily treatment of ZDF rats with the instant D-glucan-encapsulated CB1R Small interfering RNA (siRNA). Knock-down of CB1R with using glucan encapsulated siRNA may represent a new commecializable method of treating type-2 diabetes or preventing the progression of insulin resistance to overt diabetes.

Potential Commercial Applications: Treatment of obesity, insulin resistance, and diabetes.

Development Stage: In vivo data available.

Inventors: George Kunos, Tony Jourdan (NIAAA), Michael Czech, Myriam Aouadi.

Intellectual Property: HHS Reference No. E–103–2013/0, U.S. Provisional Patent Application 61/839,239 filed June 25, 2013, International Patent Application PCT/US2014/043924 filed June 24, 2014, European Patent Application 14818342.9 filed June 24, 2014 and U.S. Patent Application 14/900,951 filed June 24, 2014.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@nih.gov.*

Dated: October 5, 2017.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2017–22147 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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: Neurological Sciences Training Initial Review Group; NST–2 Subcommittee.

Date: October 23, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Elizabeth Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–1917, *Webbere@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R13 Review.

Date: October 26, 2017.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ernie Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; F32 and K22 Review.

Date: November 2–3, 2017.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Arlington Gateway, 801 N. Glebe Road, Arlington, VA 22203.

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Jimok.kim@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Stroke Clinical Trials.

Date: November 2, 2017.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R13 Review.

Date: November 8, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ernie Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Jointly Sponsored T32 Review.

Date: December 7–8, 2017.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites by Hilton Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Jimok.kim@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 6, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22142 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Specimen Resource Locator (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of October 13, 2017.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to (202) 395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Joanne Demchok, Program Director, Cancer Diagnosis Program, Division of Cancer Treatment and Diagnosis, 9609 Medical Center Drive, Rockville, MD 20892 or call non-toll-free number (240) 276–5959 or Email your request, including your address to: *peterjo@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on July 28, 2017 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Specimen Resource Locator, 0925–0703 Reinstatement without Change, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The availability of specimens and associated data is critical to increase our knowledge of cancer biology, and to translate important research discoveries to clinical application. The discovery and validation of cancer prevention markers require access, by researchers, to quality clinical biospecimens. In response, to this need, the National Cancer Institute's (NCI) Cancer Diagnosis Program has developed, and is expanding, a searchable database: Specimen Resource Locator (SRL). The SRL allows scientists in the research community and the NCI to locate specimens needed for their research. The SRL will list all NCI supported repositories and their links. This administrative submission is an on-line form that will collect information to manage and improve a program and its resources for the use of all scientists. This submission does not involve any analysis.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 105.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Private Sector	Initial Request	70	1	30/60	35
State Government		70	1	30/60	35
Federal Government		60	1	30/60	30
Private Sector	Annual Update	20	1	5/60	2

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
State Government		20	1	5/60	2
Federal Government		10	1	5/60	1
Total		250	250		105

Dated: October 6, 2017.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2017–22156 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the NHLBI Special Emphasis Panel.

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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Single Site CLTR Review.

Date: November 6, 2017.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–827–7940, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 6, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22141 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Devices and Systems For Treating Valvular Regurgitation

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to Cook Medical Technologies, LLC, located in Bloomington, Indiana, to practice the inventions embodied in the patent applications listed in the Supplementary Information section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NHLBI Office of Technology Transfer and Development October 30, 2017 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Michael Shmilovich, Esq., Senior Licensing and Patent Manager, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479, phone number 301–435–5019, or *shmilovm@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to Cook Medical Technologies, LLC: NIH Ref. No. E–027–2013/0 ''Devices And Methods for Treating Functional Triscupid Valve Regurgitation'' U.S. Provisional Patent Application 61/785,652 filed March 14, 2013, International Patent Application PCT/US2014/025300 filed under the Patent Cooperation Treaty on March 13, 2014, European Patent Application 14723540.2 having an international filing date of March 13, 2014, and U.S. Patent Application 14/776,488 also having an international filing date of March 13, 2014. NIH Ref. No. E–115–2013/0 ''Encircling Suture Delivery System For Flexible Circumferential Suture,'' U.S. Provisional Patent Application 61/834,357 filed June 12, 2013, International Patent Application PCT/US2014/040716 filed under the Patent Cooperation Treaty on June 3, 2014, European Patent Application 14735030.0 having an international filing date of June 3, 2014 and U.S. Patent Application 14/898,020 also having an international filing date of June 3, 2014. The patent rights in these inventions have been assigned to the Government of the United States of America. The prospective exclusive patent License territory may be worldwide and a field of use limited to valvular regurgitation.

The invention embodied in NIH Ref. No. E–027–2013/0 relates to devices and methods for treating functional tricuspid valve regurgitation and related conditions. The devices are adapted for applying force to an area of a patient's heart along or near the atrioventricular groove and can include a tensioning element configured to be delivered by a flexible member guided through a catheter and positioned generally along or near the atrioventricular groove, and a compression member that can be positioned along the tensioning element and over a desired segment of the atrioventricular groove to develop force to be applied to an adjacent area of the heart by selective tensioning of the tensioning element.

The invention embodied in NIH Ref No. E–115–2013/0 relates to devices for delivering encircling implants that can include two separate limbs held together at a distal articulation by the implant being delivered. The implant can comprise a suture and/or a braided

tube. The implant can extend through or over the limbs. The implant and at least a distal portion of the limbs can be compressible into a delivery shape that allows for advancement through the lumen of a delivery catheter. When the distal portion of the limbs move out of the delivery catheter, the limbs and implant can resiliently assume a loop shape that is complementary to a shape of a target around which the encircling implant is to be placed. The limbs are then retracted from along the implant to leave the implant in the desired delivery position. The delivery device can be used to place encircling implants around the heart or other targets, and the implant can be tightened to exert compressive force on the target.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive patent license will be royalty bearing and may be granted unless within fifteen (15) days from the date of this published notice, the NHLBI receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: September 22, 2017.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2017–22157 Filed 10–12–17; 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, 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: AIDS and Related Research Integrated Review Group; AIDS-associated Opportunistic Infections and Cancer Study Section.

Date: November 6, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, D.C., 2401 M Street NW., Washington, DC 20037.

Contact Person: Eduardo A Montalvo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168, *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Blood-Brain Barrier, Neurovascular System and CNS Therapeutics.

Date: November 7, 2017.

Time: 10:00 a.m. to 3:00 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: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: November 8–9, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Decision Making and Aging in Alzheimer's Disease.

Date: November 8, 2017.

Time: 8:00 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: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Brain and Spinal Cord Injury.

Date: November 8, 2017.

Time: 1:00 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: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurovirology and Neurodevelopmental Aspects of Zika Virus Infection.

Date: November 8, 2017.

Time: 2:00 p.m. to 5:30 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: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, *zhaow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: November 9–10, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Vilen A Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–094: Maximizing Investigators Research Award (R35).

Date: November 9–10, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dominique Lorang-Leins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7766, Bethesda, MD 20892, 301.326.9721, *Lorangd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immunobiology Extremes-Autoimmunity, Tolerance, and Cancer.

Date: November 9, 2017.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 6, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–22140 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Use of Pharmaceutical and Biological Compositions Comprising Gram-Negative Bacteria for the Topical Treatment of Dermatological Diseases and Dermatological Conditions

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Commercialization Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Summary Information section of this notice to Forte Biosciences, Inc. located in San Diego, California.

DATES: Only written comments and/or applications for a license which are received by the National Institute of Allergy and Infectious Diseases' Technology Transfer and Intellectual Property Office on or before October 30, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Commercialization Patent License should be directed to: David Yang, Technology Transfer and Patenting Specialist, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Suite 6D, Rockville, MD 20852–9804; Email: *yangp3@nih.gov;* Telephone: (240) 627–3413; Facsimile: (240) 627–3117.

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Application 62/324,762, filed April 19, 2016, and PCT Patent Application PCT/US2017/028133, filed April 17, 2017, both entitled ''Use of Gram Negative Species to Treat Atopic Dermatitis'' [HHS Ref. E–099–2016/0], and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the following field of use: ''Use of pharmaceutical and biological compositions comprising Gram-negative bacteria for the topical treatment of dermatological diseases and dermatological conditions''.

Atopic dermatitis (AD) is a common, recurrent, chronic inflammatory skin disease that is a cause of considerable economic and social burden. It is one of the most prevalent skin disorders, affecting ~25% of children in developed and developing countries and is expected to continue to escalate. This increased rate of incidence has changed the focus of research on AD toward epidemiology, prevention, and treatment.

The subject technology describes pharmaceutical and biological compositions comprising Gram-negative bacteria that can be developed into a topical treatment for atopic dermatitis (AD), as well as methods and kits using these compositions.

NIAID scientists have recently identified probiotic strains of *Roseomonas mucosa* bacteria that were shown to be beneficial in a pre-clinical mouse model of AD. With this promising data, NIAID launched a phase I/II clinical trial in March 2017 (link; *https://clinicaltrials.gov/ct2/show/NCT03018275*) and preliminary results from this ongoing study show that the technology may be highly effective at treating and reducing the symptoms of atopic dermatitis. If successfully developed, this invention would be the first live biotherapeutic product approved by the FDA for the treatment of AD.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Institute of Allergy and Infectious Diseases receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Exclusive Commercialization Patent License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: October 4, 2017.

Suzanne Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2017–22148 Filed 10–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Senior Executive Service Performance Review Board

AGENCY: Office of the Secretary, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service (SES) Performance Review Board (PRB) for DHS. The purpose of the PRB is to view and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES, Senior Level and Senior Professional positions of the Department.

DATES: The PRB members' terms begin October 13, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haefeli, Office of the Chief Human Capital Officer, *Elizabeth.Haefeli@hq.dhs.gov,* or by telephone (202) 357–8164.

SUPPLEMENTARY INFORMATION: Each Federal agency is required to establish one or more performance review boards to make recommendations, as necessary, in regard to the performance of senior executives within the agency. 5 U.S.C. 4314(c). This notice announces the appointment of the members of the PRB for DHS. The purpose of the PRB is to review and make recommendations concerning proposed performance

appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES positions within DHS.

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed below:

Agarwal, Nimisha
Albence, Matthew T
Allen, Matthew C
Alles, Randolph D
Allison, Roderick J
Anderson, Sandra D
Annan, Niccomedo S
Archambeault, Gregory J
Asher, Nathalie R
Asseng Jr, George A
Awni, Muhammad H
Ayala, Janice
Bailey, Angela S
Barrera, Staci
Barrera, Staci A
Bench, Bradford A
Benner, Derek N
Berger, Katrina W
Bible, Daniel A
Borkowski, Mark S
Braccio, Dominick D
Bramell, Brittany M
Brown, A. Scott
Brown, Michael C
Brunjes, David
Bryan, William N
Bush, Thomas L
Buster, Robert P
Cahill, Donna L
Callahan, William J
Calvo, Karl H
Cappello, Elizabeth A
Carraway, Melvin
Carrick, Patrick G
Carver, Jonathan I
Castro, Raul
Chang, Hayley
Chavez, Richard M
Cheng, Wen Ting
Cissna, Tiffany A
Clark, Kenneth N
Cline, Richard K
Cogswell, Patricia F
Coleman, Corey
Colucci, Nicholas
Contreras, Patrick D
Davidson, Andrew
Davidson, Michael J
Davis, Michael P
Dawson, Mark B
Decker, Thomas R
DiFalco, Frank J
DiPietro, Joseph R
Dougherty, Thomas E
Dragani, Nancy J
Driggers, Richard J
Dunbar, Susan
Edge, Peter T
Edwards, Benjamin R
Emrich, Matthew
Erichs, Alysa D
Etre, Matthew J
Falk, Scott
Fallon, William T
Fenton, Jennifer M
Filipponi, Karen B
Fitzmaurice, Stacey D
Flores, Simona L
Fluty, Larry D
Folden, Shane M
Fortner, Robert C
Fujimara, Paul
Fujimura, Paul N
Fulghum, Charles H
Gallagher, Sean W
Gallihugh II, Ronald B
Gammon, Carla
Gantt, Kenneth D
Gibbons, James M
Glawe, David J
Gowadia, Huban A
Griggs, Christine
Groom, Molly M
Guzman, Nicole G
Hall, Christopher J
Hammersley, Bonnie M
Hampton, Stephanie L
Harris, Melvin
Havranek, John
Heighberger, Eric B
Henderson, Latetia M
Hess, David
Hewitt, Ronald
Higgins, Jennifer
Higgins, Jennifer
Hill, Marcus L.
Hochman, Kathleen T
Hoffman, Jonathan R
Howard, Jr., Percy L
Huang, Paul P
Hutchinson, Kimberly S
Jacksta, Linda L.
Jenkins, Jr., Kenneth T
Jennings, David W
Jeronimo, Jose M
Johnson, Tae D
Jones, Keith
Jones, Keith A
Jones, Sophia D
Kair, Lee R
Karoly, Stephen J
Kelly, William G
Kerner, Francine
Kerns, Kevin
Khu, Jae A
King, Tatum S
Kirby, Lyn
Klein, Matthew
Kolasky, Robert P
Kolbe, Kathryn L
Koumans, Mark R
Kruger, Mary U
Lajoye, Darby R
Landfried, Phillip A
Lanum, Scott F
Lechleitner, Patrick J
Lenox, Mark R
Lewis, Donald R
Ley, Jennifer E
Lucero, Enrique M
Luck, Scott A
Lundgren, Karen E
Macias, Joseph
Maher, Joseph
Manaher, Colleen M
Manfra, Jeanette M
Marcott, Stacy A
Marin, David A
Mayenschein, Eddie D
McCane, Bobby
McElwain, Patrick J
McLane, Jo Ann
McNeill, Ha N
McNeill, Ha Nguyen
Melendez, Angel M
Melero, Mariela
Micone III, Vincent N
Mildrew, Sean M
Miles, Jere T
Miller, Marlon V
Miller, Philip T
Mocny, Robert A
Moman, C. Christopher
Monarez, Susan C
Moore, Joseph D
Moore, Mark J
Moskowitz, Brian M
Moynihan, Timothy M
Mulligan, George D
Mulligan, Scott E
Nally, Kevin
Neufeld, Donald
Neufeld, Donald W
Nevano, Gregory C
Newhouse, Victoria E
Newman, Jane E
Nuebel-Kovarik, Kathy
Nykamp, Nancy A
Opiola, Terence S
Owen, Todd C
Padilla, Kenneth
Palmer, David
Palmer, David J
Pane, Karen W
Paramore, Faron K
Parmer Jr, Raymond R
Patterson, Leonard E
Perez, Nelson
Perez, Robert E
Pineiro, Marlen
Price, Corey A
Provost, Carla L
Renaud, Daniel
Renaud, Tracy
Rittenberg, Scott R
Rivera, David D
Robbins, Timothy S
Roberts, Russell A
Rodriguez, Waldemar
Rogers, Debra A
Rose Jr, Pat A
Sahakian, Diane V
Salzgaber, Wayne H
Sammon, John P
Sarandrea, Eric
Saunders, Ian C
Scanlon, Julie A
Scott, Kika M
Seguin, Debbie
Selby, Mark R
Sellers, Frederick E
Settles, Clark E
Shah, Dimple
Shaw, David C
Shelton Waters, Karen R
Short, Victoria D
Smith, Brenda B
Solheim, Linda T
Spero, James
Spradlin, Ryan L
Stein, Frederick A
Swartz, Neal
Swartz, Neal J
Sykes, Gwendolyn

Trotta, Nicholas
Ulrich II, Dennis A
Valerio, Tracey A
Valverde, Michael
Veatch, John E
Vente, Robert P
Venture, Veronica A
Villanueva, Raymond
Vitiello, Ronald D
Wagner, John P
Walton, Kimberly H
Weinberg, Joseph W
Whittenburg, Cynthia F
Windham, Nicole
Wofford, Cynthia R
Wong, Ricardo A
Wulf, David M
Yarwood, Susan A
Young, Edward E

Dated: October 4, 2017.

Greg Ruocco,

Manager, Executive Resources Policy, Office of the Chief Human Capital Officer.

[FR Doc. 2017–22161 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Environmental Planning and Historic Preservation Program

AGENCY: Office of the Chief Readiness Support Officer, Office of Management, Department of Homeland Security.

ACTION: Notice of administrative corrections to directive and instruction.

SUMMARY: The purpose of this notice is to provide information on administrative revisions to the Department of Homeland Security (DHS or Department) Categorical Exclusions found in DHS Instruction 023–01–001–01, Rev. 01, Implementation of the National Environmental Policy Act (herein after referred to as Instruction). The Instruction was finalized October 31, 2014 and became effective on March 26, 2015; however, unintended administrative errors have since been identified. These errors are limited to Categorical Exclusions found in Appendix A, Table 1 of the Instruction. The administrative revisions covered under this notice either resolve ambiguity to ensure application which is consistent with the administrative record or resolve typographical errors that had the potential to result in inappropriate application. These revisions are effective upon publication in the **Federal Register**.

DATES: The list of Categorical Exclusions, found in Appendix A, Table 1, of the Instruction is revised as of October 13, 2017.

ADDRESSES: Relevant documents are posted at *www.dhs.gov/nepa.* These documents include: This notice, the Instruction with the revised list of Categorical Exclusions, the Administrative Record supporting the establishment of the Categorical Exclusions, a summary of revisions, the U.S. Coast Guard's (USCG's) Commandant Instruction M16475.1D, and the **Federal Register** notice entitled National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions which appeared on July 23, 2002 (67 FR 48243).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hass, Environmental Planning and Historic Preservation Program Manager, DHS, *SEP-EPHP@hq.dhs.gov* or at 202–834–4346.

SUPPLEMENTARY INFORMATION: DHS Directive 023–01 Rev. 01 (hereinafter Directive) and the Instruction establish the Department's policy and procedures for compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508). Together, the Directive and Instruction apply to all of the Components of DHS and help ensure the integration of environmental stewardship into DHS decision making as required by NEPA. The Instruction serves as the DHS implementing procedures for NEPA (as required by 40 CFR 1505.1 and 1507.3) and includes the Department's list of Categorical Exclusions, found in Appendix A, Table 1. Notice of the Directive and Instruction were published in the **Federal Register** on November 26, 2014 (79 FR 70538) and became effective on March 26, 2015.

During a recent review of the Instruction, a number of administrative errors were identified which have the potential to substantively alter the correct and intended application of several Categorical Exclusions. Based on our internal review, we have determined these errors occurred during the transcription process as Categorical Exclusions unique to the USCG and the Federal Emergency Management Agency were merged with the other DHS Component Categorical Exclusions to create a single, unified list of Categorical Exclusions for application within the Department. There was no intent to substantively alter the language or application of these Categorical Exclusions.

For the Categorical Exclusions unique to the USCG, the impacted Categorical Exclusions appear correctly in the USCG's Commandant Instruction M16475.1D which has been in effect since November 29, 2000 and the **Federal Register** notice entitled National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions which was published on July 23, 2002 (67 FR 48243).

In general, the administrative revisions include omission of an asterisk (*) designating the requirement to prepare a Record of Environmental consideration (REC); inclusion of an asterisk (*) designating the requirement to prepare a REC where that was not intended; administrative revision to more clearly delineate when a REC is required; clarification to resolve ambiguity to ensure application which consistent with the administrative record, and resolution of a typographical error. A copy of this **Federal Register** publication, DHS Instruction 023–01–001–01 Rev. 01 with the revised list of Categorical Exclusions, the Administrative Record supporting the establishment of the Categorical Exclusions, a summary of revisions, the USCG's Commandant Instruction M16475.1D, and the **Federal Register** notice entitled National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions which appeared on July 23, 2002 (67 FR 48243) are available on the internet at *www.dhs.gov/nepa.*

Dated: October 5, 2017.

Teresa R. Pohlman,

Executive Director Sustainability and Environmental Programs.

[FR Doc. 2017–22077 Filed 10–12–17; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0040]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Employment Authorization

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of

the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until December 12, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0040 in the body of the letter, the agency name and Docket ID USCIS–2005–0035. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2005–0035;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2005–0035 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–765; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. U.S. Citizenship and Immigration Services (USCIS) uses Form I–765 to collect the information that is necessary to determine if an alien is eligible for an initial EAD, a new replacement EAD, or a subsequent EAD upon the expiration of a previous EAD under the same eligibility category. Aliens in many immigration statuses are required to possess an EAD as evidence of work authorization. To be authorized for employment, an alien must be lawfully admitted for permanent residence or authorized to be so employed by the Immigration and Nationality Act (INA) or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of aliens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States. These classes are listed in 8 CFR 274a.12.

USCIS also collects biometric information from certain EAD applicants, from whom USCIS has not previously collected biometrics in connection with an underlying application or petition, to verify the applicant's identity, check or update their background information, and produce the EAD card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–765 is 2,135,224 and the estimated hour burden per response is 4.5 hours; the estimated total number of respondents for the information collection Biometric Processing is 405,067 and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for the information collection Form I–765WS is 266,148 and the estimated hour burden per response is .50 hours; the estimated total number of respondents for the information collection Passport-Style Photographs is 2,135,224 and the estimated hour burden per response is .50 hours;

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 11,283,122 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $649,107,900.

Dated: October 6, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–22151 Filed 10–12–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2017–N140; FXMB123109WEBB0–167–FF09M25100; OMB Control Number 1018–0019]

Agency Information Collection Activities; North American Woodcock Singing Ground Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 12, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0019 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: The Migratory Bird Treaty Act (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–754j–2) designate the Department of the Interior as the primary agency responsible for:

- Management of migratory bird populations frequenting the United States, and
- Setting hunting regulations that allow for the well-being of migratory bird populations.

These responsibilities dictate that we gather accurate data on various characteristics of migratory bird populations.

The North American Woodcock Singing Ground Survey is an essential part of the migratory bird management program. State, Federal, Provincial, local, and tribal conservation agencies conduct the survey annually to provide the data necessary to determine the population status of the woodcock. In addition, the information is vital in assessing the relative changes in the geographic distribution of the woodcock. We use the information primarily to develop recommendations for hunting regulations. Without information on the population's status, we might promulgate hunting regulations that:

- Are not sufficiently restrictive, which could cause harm to the woodcock population, or
- Are too restrictive, which would unduly restrict recreational opportunities afforded by woodcock hunting.

The Service, State conservation agencies, university associates, and other interested parties use the data for various research and management projects.

Title of Collection: North American Woodcock Singing Ground Survey.

OMB Control Number: 1018–0019.

Form Number: FWS Form 3–156.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State, Provincial, local, and tribal employees.

Total Estimated Number of Annual Respondents: 808.

Total Estimated Number of Annual Responses: 808.

Estimated Completion Time per Response: 1.79 hours per response, on average.

Total Estimated Number of Annual Burden Hours: 1,450.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: October 10, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–22171 Filed 10–12–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000 L13300000.PO0000; OMB Control Number 1004–0103]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Mineral Materials Disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Land Management (BLM), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the BLM at U.S. Department of the Interior, Bureau of Land Management, 1849 C

Street NW., Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman; or by email to *jesonnem@blm.gov.* Please reference OMB Control Number 1004–0103 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Stuart Grange by email at *sgrange@blm.gov* or by telephone at 202–912–7067. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, the BLM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 23, 2017 (82 FR 28675). The BLM received no comments.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of the BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: This collection of information pertains to the sale and free use of mineral materials that are not subject to mineral leasing or location under the mining laws (*e.g.,* common varieties of sand, stone, gravel, pumice, pumicite, clay and rock). To obtain a sales contract or free-use permit, an applicant must submit information to identify themselves, the location of the site, and the proposed method to remove the mineral materials. The BLM uses the information to process the request, determine whether the request meets statutory requirements, and decide whether not to approve the request.

Title of Collection: Mineral Materials Disposal.

OMB Control Number: 1004–0103.

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Those who want to obtain mineral materials that are not subject to mineral leasing or location under the mining laws (*e.g.,* common varieties of sand, stone, gravel, pumice, pumicite, clay and rock).

Total Estimated Number of Annual Respondents: 3,870.

Total Estimated Number of Annual Responses: 3,870.

Estimated Completion Time per Response: Varies from 30 minutes to 2 hours, depending on the activity.

Total Estimated Number of Annual Burden Hours: 5,833.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $53,430.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Mark Purdy,

Bureau of Land Management, Management Analyst.

[FR Doc. 2017–22213 Filed 10–12–17; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

LLNVC02000.L51010000.ER0000. LVRWF1705160 MO#4500109955; N–94477; 13–08807]

Notice of Realty Action: Classification and Segregation for Lease/Conveyance for Recreation and Public Purposes for a School in Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: In accordance with Section 7 of the Taylor Grazing Act and Executive Order 6910, as amended, the Bureau of Land Management (BLM), Carson City District, Nevada, has examined and found suitable for classification for lease/conveyance approximately 80 acres of public land in Washoe County, Nevada, under the provisions of the Recreation and Public Purposes (R&PP) Act of June 14, 1926, as amended. The Washoe County School District proposes to use the land for a middle school located in Sun Valley, Nevada.

DATES: Interested parties may submit written comments regarding the proposed classification or lease/conveyance on or before November 27, 2017.

ADDRESSES: Send written comments to Bryant Smith, Field Manager, BLM Sierra Front Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: John Grasso, Realty Specialist, at the address in the **ADDRESSES** section or by telephone at 775–885–6110 or email at *jgrasso@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Washoe County School District filed an R&PP application to use public land to authorize and construct a middle school in order to provide relief to overcrowding at Yvonne Shaw Middle School, located in Spring Valley. The land is described as:

Mount Diablo Meridian, Nevada

T. 20 N., R. 20 E.

Sec. 5, S½SW¼.

The area described contains 80 acres more or less in Washoe County.

The land is not required for any Federal purpose. The proposed lease/conveyance is consistent with the BLM Carson City Field Office Consolidated Resource Management Plan dated May 2001, and is in the public interest. NEPA compliance documentation is being prepared under #DOI–BLM–NV–C020–2017–0016–EA.

The lease/conveyance, if issued, would be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, including, but not limited to, 43 CFR parts 2740–2743 and 2912, and would be subject to the following terms, conditions, and reservations:

1. The reservation to the United States of a right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe; and subject to valid existing rights;

3. An appropriate indemnification clause protecting the United States from claims arising out of the lessees/patentee's use, occupancy, or occupations on the leased/patented lands; and

4. Additional terms and conditions that the authorized officer deems appropriate.

Upon publication of this Notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the United States general mining laws, except for conveyance under the R&PP Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

Interested persons may submit comments involving the suitability of the land for development of a school. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or whether the use is consistent with state and Federal programs.

Interested persons may submit comments, including notification of any encumbrances or other claims relating to the land, regarding the specific use proposed in the application and plan of development, whether the BLM followed appropriate administrative procedures in reaching a decision to lease/convey under the R&PP Act, or any other factors not directly related to the suitability of the land for the middle school.

Documents related to this action are on file at the BLM Sierra Front Field Office at the address in the **ADDRESSES** section and may be reviewed by the public at their request.

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, the BLM cannot guarantee that we will be able to do so. Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Sierra Front Field Office will be considered properly filed.

Any adverse comments will be reviewed by the BLM Nevada State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become effective December 12, 2017. The land would not be offered for conveyance until after the classification becomes effective.

Authority: 43 CFR 2741.

Bryant Smith,

Field Manager, Sierra Front Field Office.

[FR Doc. 2017–22217 Filed 10–12–17; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2017–0003; 17XE1700DX EEEE500000 EX1SF0000.DAQ000; OMB Control Number 1014–0018]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Drilling Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Safety and Environmental Enforcement (BSEE) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before November 13, 2017.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0018 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 7, 2017 (82 FR 31629). BSEE received 28 comments in response; none were germane to the **Federal Register** notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: The regulations contained in 30 CFR 250, subpart D pertain to oil and gas drilling operations. BSEE uses the information collected under subpart D to ensure safe drilling operations and to protect the human, marine, and coastal environment. Among other things, BSEE specifically uses the information to ensure: The drilling unit is fit for the

intended purpose; the lessee or operator will not encounter geologic conditions that present a hazard to operations; equipment is maintained in a state of readiness and meets safety standards; each drilling crew is properly trained and able to promptly perform well-control activities at any time during well operations; compliance with safety standards; and the current regulations will provide for safe and proper field or reservoir development, resource evaluation, conservation, protection of correlative rights, safety, and environmental protection. We also review well records to ascertain whether drilling operations have encountered hydrocarbons or H2S and to ensure that H2S detection equipment, personnel protective equipment, and training of the crew are adequate for safe operations in zones known to contain H2S and zones where the presence of H2S is unknown.

The current Subpart D regulations specify the use of forms BSEE–0125 (End of Operations Report), and BSEE–0133/0133S (Well Activity Report). The information on BSEE–0125 is used to ensure that industry has accurate and up-to-date data and information on wells and leasehold activities under their jurisdiction and to ensure compliance with approved plans and any conditions placed upon a suspension or temporary probation. It is also used to evaluate the remedial action in the event of well equipment failure or well control loss. Form BSEE–0125 is updated and resubmitted in the event the well status changes. In addition, except for proprietary data, BSEE is required by the OCS Lands Act to make available to the public certain information submitted on BSEE–0125. The BSEE uses the information on BSEE–0133/0133S to monitor the conditions of a well and status of drilling operations. We review the information to be aware of the well conditions and current drilling activity (*i.e.,* well depth, drilling fluid weight, casing types and setting depths, completed well logs, and recent safety equipment tests and drills). The engineer uses this information to determine how accurately the lessee anticipated well conditions and if the lessee or operator is following the other approved forms that were submitted. With the information collected on BSEE–0133 available, the reviewers can analyze the proposed revisions (*e.g.,* revised grade of casing or deeper casing setting depth) and make a quick and informed decision on the request.

Title of Collection: 30 CFR part 250, subpart D, *Oil and Gas Drilling Operations.*

OMB Control Number: 1014–0018.

Form Number: BSEE–0125, BSEE–0133, and BSEE–0133S.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators.

Total Estimated Number of Annual Respondents: Varies per requirement, not all of the potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 63,347.

Estimated Completion Time per Response: Varies from 15 minutes to 23 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 83,488.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: On occasion, daily, weekly, monthly, annually, biennially, and varies by section.

Estimated Annual Nonhour Burden Cost: We have not identified any non-hour cost burdens associated with this collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Dated: August 30, 2017.

Doug Morris,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2017–22244 Filed 10–12–17; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA). This meeting announcement is being published as required by Section 10 of the FACA.

DATES: The APB will meet in open session from 9:00 a.m. until 5 p.m., on December 6–7, 2017.

ADDRESSES: The meeting will take place at Renaissance Oklahoma City Convention Center Hotel, 10 North Broadway Avenue, Oklahoma City, OK 73102, telephone (405) 228–8000.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Jillana Plybon; Management and Program Analyst; CJIS Training and Advisory Process Unit, Resources Management Section; FBI CJIS Division, Module C2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0149; telephone (304) 625–5424, facsimile (304) 625–5090.

SUPPLEMENTARY INFORMATION: The FBI CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Next Generation Identification, Interstate Identification Index, Law Enforcement Enterprise Portal, National Crime Information Center, National Instant Criminal Background Check System, National Incident-Based Reporting System, National Data Exchange, and Uniform Crime Reporting.

This meeting is open to the public. All attendees will be required to check-in at the meeting registration desk. Registrations will be accepted on a space available basis. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Designated Federal Officer (DFO). Any member of the public may file a written statement with the Board. Written comments shall be focused on the APB's current issues under discussion and may not be repetitive of previously submitted written statements. Written comments should be provided to Mr. R. Scott Trent, DFO, at least seven (7) days in advance of the meeting so that the comments may be made available to the APB for their consideration prior to the meeting.

Anyone requiring special accommodations should notify Mr. Trent at least seven (7) days in advance of the meeting.

Dated: October 5, 2017.

R. Scott Trent,

CJIS Designated Federal Officer, Criminal Justice Information, Services Division, Federal Bureau of Investigation.

[FR Doc. 2017–22209 Filed 10–12–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Survey of State and Local Law Enforcement Agencies in PL 280 States Serving Tribal Lands (SSLLEASTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 December 12, 2017.

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 Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

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:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving PL–280 Tribal Lands (SLJASTL): Survey of State and Local Law Enforcement Agencies Serving PL–280 Tribal Lands (SSLLEASTL).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be general purpose state and local law enforcement agencies (LEAs) that are responsible for policing tribal lands in the sixteen Public Law 280 (PL–280) states, including state police departments, sheriff's offices, and general purpose local law enforcement agencies. The respondent universe will be finalized after an initial telephone contact to determine which agencies are most likely to provide services to tribal lands. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics (BJS) is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to collect data from state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands in PL–280 states. State and local law enforcement agencies have jurisdiction over specific crimes and offenders when crimes occur on tribal lands.

There are no existing data collections that describe state and local law enforcement agencies' roles on tribal lands.

This collection involves at least a two-stage process. In the first phase, BJS will conduct a pilot test to determine if it is possible to sample agencies located in counties with tribal lands within their jurisdictions. BJS will telephone agencies in sampled counties to inquire about the agency's provision of services and whether the agency is aware of other police agencies that provide services to tribal lands. There are 267 counties that include tribal lands as part of their jurisdiction. BJS will sample 26 counties and select one agency within the county to ask about the delivery of services to tribal lands. There are 515 counties with no tribal lands in their jurisdiction. BJS will first sort the counties based on a measure of distance from tribal lands from closest to farthest. BJS will sample 37 agencies from the closest set of counties and 37 agencies from the farther set of counties. BJS will ask the selected agencies within those counties about their delivery of services to tribal lands.

BJS also needs to determine whether county agencies in Alaska provide services to Alaskan Native Villages, or if only the state police and village public safety officers (VPSO) provide services. There are 19 boroughs in Alaska, and at least 7 boroughs will be sampled in the first phase and the police agency for the borough will be asked about the provision of services to Alaska Native Villages. BJS will telephone approximately 107 agencies to determine if agencies in PL–280 states provide services, or if there is some specialization, particularly among city and county agencies, or agencies located closer to tribal lands. BJS will also cognitively test the revised survey with 10 agencies, including at least one state police agency, one Alaska VPSO agency, four county agencies, and four city agencies.

In the second phase, BJS will refine the sampling frame and will conduct the main survey effort. The SSLLEASTL survey is designed to collect information that will help fill the gaps in our understanding of the nature of crime on tribal lands. There are two survey instruments: One for Alaska and one for the remaining fifteen PL–280 states. The data collection instruments capture administrative, operational and caseload data from respondents. Information requested includes staffing of state and local law enforcement agencies; types of agreements state and local law enforcement agencies have with tribal governments; types of patrol services, traffic services, and detention services provided to tribal lands; information sharing between state and local law enforcement and tribal governments; training provided by state and local law enforcement to tribal law enforcement (including cross-deputization agreements); training received by state and local law enforcement agencies on tribal jurisdiction, tribal law and tribal culture; and the number and types of incidents policed by state and local law enforcement agencies. This survey is the first to describe the role that state and local law enforcement play in policing crime on tribal lands in PL–280 states.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS expects to cognitively test the survey with about 10 agencies with an estimated burden of 60 minutes and to contact approximately 107 agencies by telephone to ask whether they provide services to tribal lands. We estimate the telephoned pilot test respondent burden to be about 10 minutes per respondent. After the pilot test, BJS will determine the total number of agencies that will be contacted in the full survey effort. For the full survey, BJS estimates a maximum of 1,300 agencies with a respondent burden of about 30 minutes per agency, including follow-up time.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden for the cognitive test is 10 burden hours. The total respondent burden for the telephone pilot test is approximately 18 burden hours. The maximum expected respondent burden for the full survey effort is approximately 585 burden hours. Total burden for this effort is approximately 613 burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: October 10, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–22166 Filed 10–12–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Survey of Prosecutor Offices in PL–280 States Serving Tribal Lands (SSLPOSTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 December 12, 2017.

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 Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

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:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Survey of State and Local Prosecutor Offices in PL–280 States Serving Tribal Lands (SSLPOSTL).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be state and local prosecutor offices located in the sixteen Public Law 280 (PL–280) states. The respondent universe will be finalized after an initial telephone contact to determine which offices are most likely to provide services to tribal lands. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to collect data from state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands in PL–280 states. State and local prosecutors have jurisdiction over specific crimes and offenders when the crime occurs on tribal lands. There are no existing data collections that describe state and local prosecutors' role in prosecuting crime occurring on tribal lands.

This collection involves a two-stage process. In the first phase, BJS will conduct a pilot test to determine whether prosecutor offices located closer to tribal lands are responsible for providing services, or if all prosecutor offices within the state share equal responsibility for prosecuting crime occurring on tribal lands. There are 267 counties that include tribal lands within their jurisdiction. BJS will not need to sample these offices as there is one prosecutor office per county and the sample size would likely be a full census of all 267 offices. There are 515 counties with no tribal lands in their jurisdiction. BJS will sample 50 prosecutor offices from the 515 counties located in the counties with no tribal lands to determine whether these offices provide any services to tribal lands. BJS will also cognitively test the revised survey with 10 offices with tribal lands within their jurisdiction.

In the second phase, BJS will refine the sampling frame and conduct the full survey. The SSLPOSTL will collect information that will help fill the gaps in our understanding of the nature of crime on tribal lands. There are two survey instruments: One for Alaska and one for the remaining fifteen PL–280 states. The data collection instruments are designed to capture administrative, operational and caseload data from prosecutor offices that investigate and prosecute crimes that occur on tribal lands in PL–280 states. The information collected includes the staffing of prosecutor offices; types of agreements prosecutor offices have with tribal governments; whether prosecutors try

cases occurring on tribal lands in tribal or state courts; non-prosecutorial services provided on tribal lands (such as victim services and community outreach services); information sharing with tribal governments; training received by prosecutors about tribal lands; and the number and types of referrals to and cases prosecuted by state prosecutors. The survey is designed to describe the role that state and local prosecutor offices play in charging and prosecuting crimes that occur on tribal lands in PL–280 states.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS expects to cognitively test the revised survey with about 10 offices with an estimated burden of 60 minutes per respondent. BJS plans to contact about 50 prosecutor offices by telephone to ask whether they provide services to tribal lands with an expected respondent burden of 10 minutes per respondent. After the pilot test, BJS will determine the total number of offices that will be contacted in the full survey effort. For the full survey, BJS estimates a maximum of 315 offices and a respondent burden of about 30 minutes per office, including follow-up time.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden for the cognitive test is approximately 10 hours. The total respondent burden for the telephone pilot test is approximately 8 burden hours. The maximum expected respondent burden for the full survey effort is approximately 158 burden hours. The total burden for this effort is approximately 176 burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: October 10, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–22167 Filed 10–12–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Coverage of Certain Preventive Services Under the Affordable Care Act—Private Sector

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on a revision of the Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector information collection request (ICR) to reflect the Executive Order signed on May 4, 2017, ''Executive Order Promoting Free Speech and Religious Liberty.'' The order declares, regarding ''Conscience Protections with Respect to Preventive-Care Mandate,'' that ''[t]he Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services shall consider issuing amended regulations, consistent with applicable law, to address conscience-based objections to the preventive-care mandate promulgated under section 300gg–13(a)(4) of title 42, United States Code.''

A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before December 12, 2017.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to the Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet email address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Departments of Labor, the Treasury, and Health and Human Services are issuing interim final regulations regarding coverage of certain preventive services under section 2713 of the Public Health Service Act (PHS Act), added by the Patient Protection and Affordable Care Act, as amended, and incorporated into the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code. Section 2713 of the PHS Act requires coverage without cost sharing of certain preventive health services by non-grandfathered group health plans and health insurance coverage. Among these services are women's preventive health services, as specified in guidelines supported by the Health Resources and Services Administration (HRSA).

As authorized by final regulations issued on July 2, 2013 (78 FR 39870), and consistent with the HRSA guidelines, group health plans established or maintained by certain religious employers (and group health insurance coverage provided in connection with such plans) are exempt from the otherwise applicable requirement to cover certain contraceptive services. Additionally, under the final regulations, group health plans established or maintained by certain nonprofit organizations that hold themselves out as religious organizations and that have religious objections to contraceptive coverage (eligible organizations) are eligible for an accommodation.

The final regulations require each organization seeking accommodation to self-certify that it meets the definition of an eligible organization. The organization must send a copy of the self-certification to an issuer or third-party administrator. The organizations seeking the accommodation must maintain the self-certification/notification in a manner consistent with the record retention requirements under section 107 of the Employee Retirement Income Security Act of 1974, which generally requires records to be maintained for six years. The form that is used by eligible organizations for their self-certification is EBSA Form 700, which is an information collection request (ICR) subject to the Paperwork Reduction Act.

The August 2014 interim final and July 2015 final regulations augmented the 2013 final regulations and revised the EBSA Form 700 ICR in light of the

Wheaton order.[1] Specifically, the final regulations continued to allow eligible organizations to notify an issuer or third party administrator using EBSA Form 700, as set forth in the July 2013 final regulations. In addition, the final regulations permitted an alternative process, consistent with the Wheaton order, under which an eligible organization could notify the Secretary of HHS that it will not act as the plan administrator or claims administrator with respect to, or contribute to the funding of, coverage of all or a subset of contraceptive services. The notification must include information sufficient to identify the plan, plan type (including whether it is a church plan within the meaning of ERISA section 3(33)), and the identity and mailing addresses of any third party administrators.

The 2017 interim final rules amend the Departments' July 2015 final regulations to expand the exemption to include additional entities (any kind of non-governmental employer) and persons that object based on religious beliefs or moral convictions objecting to contraceptive or sterilization coverage, and by making the accommodation compliance process optional for eligible organizations instead of mandatory. These rules leave in place HRSA's discretion to continue to require contraceptive and sterilization coverage where no objection exists, and to the extent that PHS Act section 2713 otherwise applies. With respect to employers, the expanded exemption in these rules covers employers that have religious beliefs or moral convictions objecting to coverage of all or a subset of contraceptives or sterilization and related patient education and counseling. While the rules cover any kind of non-governmental employer but, for the sake of clarity, these regulations also include an illustrative list of employers whose objection qualifies the plans they sponsor for an exemption.

Consistent with the current exemption, exempt entities will not be required to comply with a self-certification process. Although exempt entities do not need to file notices or certifications of their exemption, existing rules governing health plans require that a plan document specify what is and is not covered. Thus where an exemption applies and all or a subset of contraception is omitted from a plan's coverage, the plan document and otherwise applicable ERISA disclosures[2] should reflect the omission of coverage. This is not an added obligation, but it will serve to help provide notice of what plans do and do not cover.

As in the previous rule, institutions of higher education that arrange student health insurance coverage will continue to be treated similar to the way employers are treated for the purposes of such plans being exempt. These interim final rules also exempt group health plans sponsored by an entity other than an employer, and health insurance issuers in the group and individual market, that object based on religious beliefs or moral convictions to coverage of contraceptives or sterilization. The rules also exempt health coverage offered or provided to certain individuals with their own religious or moral objections.

Employers that under the previous rules had used the accommodation process, but can now be exempt may now choose to revoke their use of the accommodation process, but in order to do so they must provide participants and beneficiaries written notice of such revocation as soon as possible.

The Office of Management and Budget (OMB) approved the amendments to EBSA Form 700 required as a revision to OMB Control Number 1210–0150 under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB's approval of the revision currently are schedule to expire on September 30, 2018. In an effort to consolidate the number of information collection requests, the Department is combining the burden from 1210–0152 into 1210–0150. Once this ICR is approved the Department will discontinue. 1210–0152.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of its revision to EBSA Form 700. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. Changes to the current ICR include an expansion to the number of firms that qualify for the exemption, making the accommodation process optional, and requiring firms that are revoking their current accommodation to send a notice to plan participants and beneficiaries. The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Type of Review: Revised Collection.

Agency: DOL–EBSA.

Title: Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector.

OMB Numbers: 1210–0150.

Affected Public: Private Sector—Not for profit and religious organizations; businesses or other for profits.

Total Respondents: 114 (combined with HHS total is 227).

Total Responses: 274,628 (combined with HHS total is 549,255).

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 181 (combined with HHS total is 362 hours).

Estimated Total Annual Burden Cost: $68,662 (combined with HHS total is $137,325).

III. Desired Focus of Comments

The Department of Labor (Department) 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.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: October 5, 2017.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2017–22064 Filed 10–12–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

[1] The Supreme Court of the United States interim order in connection with an application for an injunction in the pending case of *Wheaton College* v. *Burwell* (the ''Wheaton order'').

[2] *See, e.g.,* 29 CFR 2520.104b–3(d).

ACTION: Notice of solicitation of comments.

SUMMARY: The Department of Labor through the Bureau of Labor Statistics (BLS) is currently soliciting comments for the second major revision of the Occupational Injury and Illness Classification System (OIICS), current version 2.01. The last major revision occurred in 2011. BLS is responsible for the development and publication of occupational injury, illness, and fatality data. These data are compiled by the Survey of Occupational Injuries and Illnesses (SOII) and the Census of Fatal Occupational Injuries (CFOI) programs. The OIICS is used to classify certain case characteristics associated with the nonfatal and fatal work injury cases received by the programs.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 1, 2018.

ADDRESSES: Send comments to Christen Byler, Office of Safety, Health and Working Conditions, Bureau of Labor Statistics, Room 3180, 2 Massachusetts Avenue NE., Washington, DC 20212 or by email to: *OIICS-R@bls.gov*.

FOR FURTHER INFORMATION CONTACT: Christen Byler, Office of Safety, Health and Working Conditions, Bureau of Labor Statistics, telephone number: 202–691–6252, or by email at: *Byler.Christen@bls.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Injury and Illness Classification System is used to code case characteristics of nonfatal injuries and illnesses reported in the SOII and fatal injuries reported in CFOI. Cases are classified according to five code structures that describe the injury or illness and how it occurred:

- *Nature of Injury or Illness:* Describes the physical characteristics of the injury or illness.
- *Part of Body Affected:* Identifies the part of the body directly affected by the nature.
- *Source of Injury or Illness:* Identifies the object or substance that directly inflicted the injury or illness.
- *Event or Exposure:* Describes the manner in which the injury or illness was inflicted by the source.
- *Secondary Source:* Identifies other objects or substances, if any, that contributed to the event or exposure. The same code list is used for both source and secondary source.

The case characteristic classification structures are hierarchical with four levels of detail to facilitate the aggregation of information and to accommodate both variations in detail available on reporting forms and the needs of data users. For example, one user may wish to look at data for injuries involving all trucks (Source code 825); whereas, another user may be interested only in cases involving tractor trailer trucks (Source code 8254). With the 2011 adoption of OIICS 2.0, the numeric hierarchy also became an order of precedence within each of the characteristics, designating which codes should be given priority when multiple codes could be appropriate within a given case.

Each case characteristic structure is comprised of the following:

- *Rules of precedence:* Designates which division within the coded case characteristic, Event or Exposure, is to take precedence when more than one code might be applicable within the case.
- *Rules of selection:* Defines which codes should be used and how different coded case characteristics interact with each other, specifically event/source/secondary source and nature/part.
- *Code descriptions:* Provides detailed definitions for individual code categories and often gives examples of types of cases that are included or excluded from the category.
- *Complete code list:* Includes the codes and associated titles by themselves without the descriptions.
- Alphabetical indices.

The original Occupational Injury and Illness Classification System (OIICS) was released in December 1992. It was developed by the Bureau of Labor Statistics with input from data users and states participating in the BLS Occupational Safety and Health (OSH) Federal/State cooperative programs. It was ultimately based on the American National Standards Institute (ANSI) Z16.2–1962, *Method of Recording Basic Facts Relating to the Nature and Occurrence of Work Injuries,* revised 1969. In addition, certain portions are based on the International Statistical Classification of Diseases and Related Health Problems, 9th Revision, Clinical Modification (ICD–9 CM), which is widely used in the medical community.

After its adoption in 1992, OIICS was approved for use as the American National Standard for Information Management for Occupational Safety and Health in 1995 (ANSI Z16.2–1995). In addition to the BLS occupational safety and health statistics program, the OIICS is used by several state workers' compensation agencies, the National Institute for Occupational Safety and Health, and other organizations.

In September 2007, the OIICS underwent a minor update to incorporate various interpretations and corrections. A major revision followed resulting in OIICS version 2.0 with an additional minor update culminating in version 2.01. Version 2.0 was adopted with reference year 2011 and was considered a major break in series. Included were major changes to rules of selection, new code births, as well as the introduction of rules of precedence designated by the numeric hierarchy of the structures. The current version of the OIICS (2.01) is available on the BLS Web site at *http://www.bls.gov/iif/oshoiics.htm*.

II. Current Action

A second major revision of OIICS was initiated in spring 2017. This revision is intended to update the classification system to:

- Include new or emerging conditions or workplace hazards that could potentially result from an incident or exposure in the workplace.
- Provide for data aggregations not available with the current OIICS.
- Explore the need for new or expanded coding structures to capture other case characteristics, for example worker activity.
- Improve and clarify order of precedence and rules of selection.
- Improve the usability and layout of the OIICS manual.

In addition, BLS will review the International Statistical Classification of Diseases and Related Health Problems 10th Revision (ICD–10), new ANSI standards, international program comparisons, and other comparable coding structures to optimize the capture of actionable insights for safety intervention from BLS occupational safety and health data.

III. Desired Focus of Comments

Comments and recommendations are requested from the public on the following aspects of the OIICS:

- The layout and organization of the manual.
- The order of precedence and rules of selection of the five case characteristics (Nature of Injury or Illness, Part of Body Affected, Source of Injury or Illness, Secondary Source, Event or Exposure).
- Potential new coded characteristics (worker activity, work environment exposures, location, etc.).
- The code categories, including recommendations for additional categories, and for merging or deleting existing categories. (Please provide justifications where possible.)

- The descriptions of the code categories, including the lists of inclusions and exclusions.
- Alphabetical indices and other desired tools for coding assistance.
- Any other thoughts on the coding system.

Signed at Washington, DC, this 5th day of October 2017.

Kimberley Hill,

Chief, Division of Management Systems.

[FR Doc. 2017–22188 Filed 10–12–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2017–0010]

Nevada State Plan; Change in Level of Federal Enforcement: Private-Sector Employment on Military Bases

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

ACTION: Notice.

SUMMARY: This document gives notice of OSHA's approval of a change to the state of Nevada's Occupational Safety and Health State Plan reinstating federal OSHA enforcement authority over private-sector employment on military facilities and bases in Nevada. The Nevada State Plan currently has coverage over some private-sector contractors on military bases. Therefore, OSHA amends the Nevada State Plan's coverage to reflect this change in the level of federal enforcement.

DATES: *Applicable Date:* October 13, 2017.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Francis Meilinger, Director, OSHA Office of Communications: Telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general and technical information: Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs: Telephone: (202) 693–2200; email: *kalinowski.doug@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 667 (OSH Act), provides that states that assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting and obtaining federal approval of a State Plan. State Plan approval occurs in stages which include initial approval under section 18(c) of the OSH Act and, ultimately, final approval under section 18(e).

The Nevada State Plan was initially approved under Section 18(c) of the OSH Act on January 4, 1974 (39 FR 1009). The Nevada State Plan is administered by the Department of Business and Industry, Division of Industrial Relations, Nevada Occupational Safety and Health Administration (Nevada OSHA). On April 18, 2000, OSHA announced the final approval of the Nevada State Plan pursuant to section 18(e) and amended 29 CFR part 1952 to reflect the Assistant Secretary's decision (65 FR 20742). As a result, federal OSHA relinquished its enforcement authority with regard to occupational safety and health issues covered by the Nevada State Plan.

Federal OSHA retained its authority over safety and health in the private sector over maritime employment; contract workers, and contractor-operated facilities engaged in U.S. Postal Service mail operations; contractors and subcontractors on land under exclusive federal jurisdiction; employment on Indian Land; and any hazard, industry, geographical area, operation, or facility over which the state is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan.

To establish military facilities, the Federal Government may privately purchase or lease land, as any other entity would, and in those cases a State Plan can cover private-sector occupational safety and health on such land. In other cases, the Federal Government may ask a State to cede the land to the Federal Government, in which case the latter obtains jurisdiction over it; however, a State may retain some jurisdiction. Thus, the determination whether the State Plan or federal OSHA covers private-sector employers on military facilities can be complicated. For example, military facilities in Nevada sometimes encompass both land where jurisdiction has been ceded and land privately owned by the Federal Government (though federal OSHA covers all federal civilian employees on military facilities). This situation has created confusion as to whether federal OSHA or the Nevada State Plan covers private-sector employers on a military facility, and is a resource-intensive inquiry. Thus, the Nevada State Plan requested on December 14, 2016, that federal OSHA resume enforcement authority over all private-sector employment on military facilities and bases. After discussions between federal OSHA and Nevada OSHA, both agencies agreed that federal coverage of all private-sector contractors on military bases was the best solution to ensure prompt and effective protection to workers on military bases in Nevada.

Accordingly, notice is hereby given of the change in federal enforcement authority over private-sector contractors on military bases in Nevada, and coverage is transferred from the Nevada State Plan to federal OSHA.

Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR parts 1902, 1953 and 1955.

Signed in Washington, DC, on October 3, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–22175 Filed 10–12–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Representative Payee Report (CM–623), Representative Payee Report, Short Form (CM–623S) and Physician's/Medical Officer's Statement (CM–787). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted by December 12, 2017.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW.,

Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95).

I. Background: The Division of Coal Mine Workers' Compensation administers the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*) which provides benefits to coal miners totally disabled due to pneumoniosis, and their surviving dependents. The CM–623, Representative Payee Report is used to collect expenditure data regarding the disbursement of the beneficiary's benefits by the representative payee to assure that the beneficiary's needs are being met. The CM–623S, Representative Payee—Short Form, is a shortened version of the CM–623 that is used when the representative payee is a family member residing with the beneficiary. Currently, the representative payee completes the CM–623/CM–623S to provide a final accounting of benefits received on behalf of the beneficiary. Commonly, final utilization is due to the death of the beneficiary or when there is a change in representative payee determination. The CM–787, Physician's/Medical Officer's Statement is used to gather information from the beneficiary's physician about the capability of the beneficiary to manage monthly benefits. This form is used by OWCP to determine if it is in the beneficiary's best interest to have his/her benefits managed by another party. The regulatory authority for collecting this information is in 20 CFR 725.506, 510, 511, and 513. This information collection is currently approved for use through January 31, 2018.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to carry out its responsibility to administer the Black Lung Benefits Act.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title: Representative Payee Report (CM–623), Representative Payee Report, Short Form (CM–623S) and Physician's/Medical Officer's Statement (CM–787).

OMB Number: 1240–0020.

Agency Number: CM–623, CM–623S and CM–787.

Affected Public: Individuals or households, Business or other for-profit and Not-for-profit institutions.

Form	Time to complete	Frequency of response	Number of respondents	Number of responses	Hours burden
CM–623	90	As Needed	300	300	450
CM–623S	10	As Needed	325	325	54
CM–787	15	Once	700	700	175
Totals			1,325	1,325	679

Total Respondents: 1,325.

Total Annual Responses: 1,325.

Average Time per Response: 31 minutes.

Estimated Total Burden Hours: 679.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 3, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2017–22163 Filed 10–12–17; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Report of Changes that May Affect Your Black Lung Benefits (CM–929 and CM–929P). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Written comments must be submitted by December 12, 2017.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a

preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95).

I. Background: The Black Lung Benefits Act, 30 U.S.C. 901 *et seq.,* 30 U.S.C. 936 and 941, and its implementing requlations, 20 CFR 725.533(e), authorizes the Division of Coal Mine Workers' Compensation (DCMWC) to collect information regarding payments of compensation to coal miners and other beneficiaries. Once a miner or survivor is found eligible for benefits, the primary beneficiary is requested to report certain changes that may affect benefits. To ensure that there is a review and update of all claims paid from the Black Lung Disability Trust Fund, and from Social Security cases transferred to the Department of Labor under the Black Lung Consolidation of Administrative Responsibilities Act of 2002, and to help the beneficiary comply with the need to report certain changes, the CM–929 is sent to all appropriate primary beneficiaries. The CM–929 is printed by the DCMWC computer system with information specific to each beneficiary, such as name, address, number of dependents on record, state workers' compensation information, and amount of current benefits. The beneficiary reviews the information and certifies that the information is current, or provides updated information. The form includes a warning about potential consequences of failure to report changes.

The CM–929P is sent to all beneficiaries who have a representative payee. Compensation is paid to a representative payee on behalf of the beneficiary when the beneficiary is unable to manage his/her benefits due to incapability, incompetence or minority. The CM–929P is printed by the DCMWC computer system with information specific to each beneficiary, such as name, address, number of dependents on record, state workers' compensation information, and amount of benefits. Additionally, representative payees are requested to provide information regarding the use of benefits received, where the beneficiary lives, and ensuring the needs of the beneficiary are being met. The representative payee reviews the information specific to the beneficiary, as well as provides their accounting of the funds received, and certifies that all information is current or provides updated information. The form includes a warning about potential consequences of failure to report changes.

This information collection is currently approved for use through December 31, 2017.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to verify the accuracy of information in the beneficiary's claims file, to identify changes in the beneficiary's status, to ensure that the amount of compensation being paid the beneficiary is accurate, and to verify that a representative payee is using benefits received to meet the beneficiary's needs.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title: Report of Changes That May Affect Your Black Lung Benefits.

OMB Number: 1240–0028.

Agency Number: CM–929 and CM–929P.

Affected Public: Individuals and Not-for-profit institutions.

Form	Time to complete (minutes)	Frequency of response (minutes)	Number of respondents	Number of responses	Hours burden
CM–929	5–8	Annually	26,000	26,000	1,999
CM–929P	6–80	Annually	3,380	3,380	4,090
Totals	12		29,380	29,380	6,089

Total Respondents: 29,380.

Total Annual Responses: 29,380.

Average Time per Response: 12 minutes.

Estimated Total Burden Hours: 6,089.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 3, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2017–22164 Filed 10–12–17; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 17–075]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public 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.

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments

regarding the proposed information collection to the National Aeronautics and Space Administration, 300 E Street SW., Washington, DC. Attention: Lori Parker, NASA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, (202) 358–1351.

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA is proposing construction of a Low Boom Flight Demonstration (LBFD) experimental aircraft, aka X-plane.

This information collection will enable NASA to pre-test methods to collect information from individuals to determine community response to the new, quieter sonic booms, prior to the start of flight testing the X-plane. No public exposure to any form of sonic boom will occur during the pre-testing phase.

The pre-test will be conducted by telephone interview. NASA wants to evaluate telephone surveys to assess prompt public response associated with experiencing low amplitude sonic booms over multiple, geographically dispersed communities. Responses will be voluntary.

The new X-plane is designed to produce low amplitude sonic booms. Ultimately, flight testing of the X-plane is intended to (1) demonstrate and validate the technology necessary for civil supersonic flights that create low amplitude sonic booms, and (2) assess community response to the new, quieter, sonic booms.

II. Method of Collection

Telephone.

III. Data

Title: Pilot Testing of Telephone Interviewing Approaches to Assess Community Response to New, Quieter Boom Experiences.

OMB Number: 2700–XXXX.

Type of review: New information collection.

Affected Public: Individuals.

Estimated Number of Respondents: 5,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 250.

Estimated Total Annual Cost to Respondents: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2017–22177 Filed 10–12–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 2:00 p.m., Wednesday, October 18, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Board Briefing, NCUA's 2018–2019 Budget.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–22345 Filed 10–11–17; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, IMLS has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' to OMB for approval under the Paperwork Reduction Act (PRA).

DATES: Comments must be submitted by November 10, 2017.

ADDRESSES: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Sandra R. Webb, Ph.D., Senior Advisor, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718, Fax: 202–653–4601, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback

to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received two comments in response to the 60-day notice published in the **Federal Register** of February 15, 2017 (82 FR 10807).

Below we provide the projected average estimates for the next three years:

Current Actions: Renew collection of information plan.

Type of Review: Renewal.

OMB Number: 0081.

Agency Number: 3137.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 11.

Annual responses: 9854.

Frequency of Response: Once per request.

Average minutes per response: 51 minutes.

Burden hours: 1578 hours.

Total Annual Costs: $43,984.71.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: October 6, 2017.

Kim A. Miller,

Grants Management Specialist, Office of the Chief Financial Officer.

[FR Doc. 2017–22109 Filed 10–12–17; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: The National Endowment for the Humanities will hold twelve meetings of the Humanities Panel, a federal advisory committee, during November, 2017. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* November 1, 2017. This meeting will discuss applications on the subjects of U.S. History and Culture: Military and Political History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

2. *Date:* November 2, 2017. This meeting will discuss applications on the subjects of U.S. History and Culture: Regional, State, and Local History, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

3. *Date:* November 2, 2017. This meeting will discuss applications on the subjects of U.S. History and Culture, for the Public Humanities Projects—Community Conversations grant program, submitted to the Division of Public Programs.

4. *Date:* November 3 2017. This meeting will discuss applications on the subject of Literature, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

5. *Date:* November 6, 2017. This meeting will discuss applications on the subject of Cultural History, for Media Projects: Production Grants, submitted to the Division of Public Programs.

6. *Date:* November 7, 2017. This meeting will discuss applications on the subject of Media Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

7. *Date:* November 8, 2017. This meeting will discuss applications on the subjects of Ecology and Health, for the Public Humanities Projects—Community Conversations grant program, submitted to the Division of Public Programs.

8. *Date:* November 9, 2017. This meeting will discuss applications on the subjects of Art and Literature, for the Public Humanities Projects—Community Conversations grant program, submitted to the Division of Public Programs.

9. *Date:* November 9, 2017. This meeting will discuss applications on the subject of American Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

10. *Date:* November 13, 2017. This meeting will discuss applications for the Humanities Open Book Program, submitted to the Office of Digital Humanities.

11. *Date:* November 28, 2017. This meeting will discuss applications on the subject of Indigenous Studies, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

12. *Date:* November 30, 2017. This meeting will discuss applications on the subject of World Studies: Pre-Modern Era, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: October 10, 2017.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2017–22208 Filed 10–12–17; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting Notice

DATES AND TIME: October 17, 2017 at 1:00 p.m.

PLACE: Board Agenda Room, No. 5065, 1015 Half St. SE., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider ''the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition . . . of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto.'' See also 5 U.S.C. 552b(c)(10).

FOR FURTHER INFORMATION CONTACT: Roxanne Rothschild, Deputy Executive Secretary, 1015 Half Street SE., Washington, DC 20570. Telephone: (202) 273–2917.

Dated: October 11, 2017.

Roxanne Rothschild,

Deputy Executive Secretary, National Labor Relations Board.

[FR Doc. 2017–22371 Filed 10–11–17; 4:15 pm]

BILLING CODE 7545–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Awards and Facilities Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference on short notice for the transaction of National Science Board business, as follows:

TIME AND DATE: October 17, 2017, from 1:00–2:00 p.m. EDT.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) Committee Chair's opening remarks; (2) Update on Arecibo.

CONTACT PERSON FOR MORE INFORMATION: This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. You can find meeting information and updates (time, place, subject or status of meeting) at *https://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* The point of contact for this meeting is: Elise Lipkowitz, *elipkowi@nsf.gov,* telephone: (703) 292–7000.

Chris Blair,

Executive Assistant to the NSB Office.

[FR Doc. 2017–22260 Filed 10–11–17; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0086]

Information Collection: 10 CFR Part 81, ''Standard Specifications for Granting of Patent Licenses''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, 10 CFR part 81, ''Standard Specifications for Granting of Patent Licenses.''

DATES: Submit comments by November 13, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs (3150–0121), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0086 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0086.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML17265A330.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, 10 CFR part 81, ''Standard Specifications for Granting of Patent Licenses.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of

information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 19, 2017, 82 FR 27879.

1. *The title of the information collection:* Information Collection: 10 CFR part 81, ''Standard Specifications for Granting of Patent Licenses''.

2. *OMB approval number: 3150–0121.*

3. *Type of submission:* Extension.

4. *The form number if applicable:* N/A.

5. *How often the collection is required or requested:* 8 Applications for licenses are submitted once. Other reports are submitted annually or as other events require.

6. *Who will be required or asked to respond:* Applicants for and holders of NRC licenses to NRC inventions.

7. *The estimated number of annual responses:* 1.

8. *The estimated number of annual respondents:* 1.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 37; however, no applications are anticipated during the next three years.

10. *Abstract:* As specified in part 81 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC may grant nonexclusive licenses or limited exclusive licenses to its patented inventions to responsible applicants. Applicants for licenses to NRC inventions are required to provide information which may provide the basis for granting the requested license. In addition, all license holders must submit periodic reports on efforts to bring the invention to a point of practical application and the extent to which they are making the benefits of the invention reasonably accessible to the public. Exclusive license holders must submit additional information if they seek to extend their licenses, issue sublicenses, or transfer the licenses. In addition, if requested, exclusive license holders must promptly supply to the United States Government copies of all pleadings and other papers filed in any patent infringement lawsuit, as well as evidence from proceedings relating to the licensed patent.

Dated at Rockville, Maryland, this 6th day of October 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–22143 Filed 10–12–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0269]

Information Collection: Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.''

DATES: Submit comments by November 13, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo Desk Officer, Office of Information and Regulatory Affairs (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0269 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0269. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID <INSERT: NRC–2016–0269> on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden table are available in ADAMS under Accession Nos. ML17208A007 and ML17208A009.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a renewal of an existing collection of information to OMB for review entitled, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection

of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 15, 2017 (82 FR 27536).

1. *The title of the information collection:* Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste.

2. *OMB approval number:* 3150–0132.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* Required reports are collected and evaluated on a continuing basis as events occur; submittal of reports varies from less than one per year under some rule sections to up to an average of about 80 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at any time; applications for renewal of licenses are required every 40 years for an Independent Spent Fuel Storage Installation (ISFSI) or CoC effective May 21, 2011, and every 40 years for a Monitored Retrievable Storage (MRS) facility.

6. *Who will be required or asked to respond:* Certificate holders and applicants for a CoC for spent fuel storage casks; licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI; and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

7. *The estimated number of annual responses:* 839 (607 reporting responses + 150 third party disclosure responses + 82 recordkeepers).

8. *The estimated number of annual respondents:* 82.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 79,040 hours (33,909 hours reporting + 42,319 hours recordkeeping + 2,812 hours third-party disclosure).

10. *Abstract:* Part 72 of Title 10 of the Code of Federal Regulations (10 CFR), establishes mandatory requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, as well as requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials in an MRS. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations.

Dated at Rockville, Maryland, this 6th day of October 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–22144 Filed 10–12–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Week of October 16, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of October 16—Tentative

Monday, October 16, 2017

10:30 a.m. Affirmation Session (Public Meeting) (Tentative)
Final Rule: Modified Small Quantities Protocol (RIN 3150–AJ70; NRC–2015–0263) (Tentative)

* * * * *

Additional Information

By a vote of 3–0 on October 10 and 11, 2017, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on October 16, 2017

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0981 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: October 11, 2017.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–22316 Filed 10–11–17; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–213; MC2018–4 and CP2018–6; MC2018–5 and CP2018–7]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 17, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related

to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–213; *Filing Title:* Notice of the United States Postal Service of Filing a Modification to a Global Expedited Package Services 7 Negotiated Service Agreement; *Filing Acceptance Date:* October 6, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 17, 2017.

2. *Docket No(s).:* MC2018–4 and CP2018–6; *Filing Title:* Request of the United States Postal Service to add Priority Mail Contract 367 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision. Contract, and Supporting Data; *Filing Acceptance Date:* October 6, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* October 17, 2017.

3. *Docket No(s).:* MC2018–5 and CP2018–7; *Filing Title:* Request of the United States Postal Service to add Priority Mail Contract 368 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision. Contract, and Supporting Data; *Filing Acceptance Date:* October 6, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* October 17, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–22226 Filed 10–12–17; 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: *Date of notice:* October 13, 2017.

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 October 6, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 368 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–5, CP2018–7.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–22038 Filed 10–12–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81837; File No. SR–NASDAQ–2017–096]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Waive Nasdaq's Entry Fee When a New Entity Lists in Connection With Certain Transactions Between Two or More Nasdaq-Listed Companies

October 6, 2017.

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 September 26, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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 waive Nasdaq's Entry Fee when a new entity lists in connection with a transaction between two or more Nasdaq-listed companies (or involving assets from such companies), where at least one of the Nasdaq-listed companies ceases to be separately listed.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

5910. The Nasdaq Global Market (including the Nasdaq Global Select Market)

(a) Entry Fee

(1)–(6) No change.

(7) The fees described in this Rule 5910(a) shall not be applicable with respect to any securities that:

(i) No change.

(ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated as national market securities under Rule 5220; [or]

(iii) are listed on another national securities exchange but not listed on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Nasdaq, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Global Market*; or*

(iv) are listed on Nasdaq by a newly formed Company resulting from a transaction between two or more Nasdaq-listed Companies (or involving assets from such Companies), where at least one of the Nasdaq-listed Companies ceases to be separately listed.

(8)–(11) No change.

(b)–(f) No change.

* * * * *

5920. The Nasdaq Capital Market

(a) Entry Fee

(1)–(6) No change.

(7) The fees described in this Rule 5920(a) shall not be applicable with respect to any securities that:

(i) No change.

(ii) are listed on the New York Stock Exchange and Nasdaq, if the issuer of such securities ceases to maintain their listing on the New York Stock Exchange and the securities instead are designated under the plan applicable to Nasdaq Capital Market securities; [or]

(iii) are listed on another national securities exchange, if the issuer of such securities is acquired by an unlisted company and, in connection with the acquisition, the unlisted company lists exclusively on the Nasdaq Capital Market*; or*

(iv) are listed on Nasdaq by a newly formed Company resulting from a transaction between two or more Nasdaq-listed Companies (or involving assets from such Companies), where at least one of the Nasdaq-listed Companies ceases to be separately listed.

(8)–(11) No change.

(b)–(e) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 purpose of the proposed rule change is to adopt a waiver of Nasdaq's entry fee for a newly formed company resulting from a transaction between two or more Nasdaq-listed companies (or involving assets from such companies), where at least one of the Nasdaq-listed companies ceases to be separately listed.

Nasdaq charges most newly listing companies an entry fee, but excludes certain new listings from that fee where it believes it is equitable to do so. For example, Nasdaq does not charge an entry fee for companies that transfer from another national securities exchange given that these companies had previously paid an entry fee to that other exchange and to encourage companies to switch their listing to Nasdaq.[3] In addition, Nasdaq does not charge an entry fee for a previously unlisted company that lists in connection with a transaction whereby it acquires a company listed on another national securities exchange because this situation is similar to a company switching its listing.[4]

Nasdaq now proposes to exclude an additional category of companies from the entry fee: Newly formed companies resulting from a transaction between two or more Nasdaq-listed companies (or involving assets from such companies) where at least one of the Nasdaq-listed companies ceases to be separately listed. In such a case, while there may technically be a new legal entity created and listed for the first time, at least one of the companies ceases to be separately listed and so Nasdaq believes it is equitable to treat the new combined company as succeeding to that listing, which has already been subject to the applicable entry fees. In addition, given that all companies involved in the transaction are already listed on Nasdaq, the Exchange's regulatory staff will already be familiar with the companies and the transaction and the companies will be familiar with the Exchange's rules, which will result in a reduced burden on staff to review the new company than would otherwise be the case.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues. As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable, or unfairly discriminatory.

Nasdaq believes that the proposed waiver of Nasdaq's entry fee for a newly formed company resulting from a transaction between two or more Nasdaq-listed companies (or involving assets from such companies), where at least one of the Nasdaq-listed companies ceases to be separately listed, is reasonable and not unfairly discriminatory because it recognizes that the new combined company is essentially succeeding to the listing of the company that ceases to be separately listed in the transaction, which has already been subject to the applicable entry fees. In addition, given that all companies involved in the transaction are already listed on Nasdaq, the Exchange's regulatory staff will already be familiar with the companies and the transaction and the companies will be familiar with the Exchange's rules, which will result in a reduced burden on staff to review the new company than would otherwise be the case. These are non-discriminatory reasons to waive the fee for this situation. Nasdaq also notes that the proposed waiver would be applied in the same manner to all similarly situated companies.

Nasdaq also believes that the proposed waiver is not unfairly discriminatory in that it will encourage the new company to remain listed on Nasdaq at a time when the company is undergoing a change and may otherwise consider alternative listing venues. This competitive dynamic provides an additional reason as to why it is appropriate to distinguish companies in this situation from other new listings.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section

[3] Nasdaq Rules 5910(a)(7)(i) and 5920(a)(7)(i).

[4] Nasdaq Rules 5910(a)(7)(iii) and 5920(a)(7)(iii).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

6(b)(5) of the Act[7] in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the amount of revenue forgone by this limited waiver of Nasdaq's entry fee is not substantial, and may result in more companies remaining listed on Nasdaq in connection with such transactions, thereby increasing the resources available for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected. Consequently, Nasdaq believes that the potential loss of revenue from this change will not hinder its ability to fulfill its regulatory responsibilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. In such an environment, Nasdaq must continually adjust its fees to remain competitive with other exchanges. Because other listing venues are similarly free to modify their own fees in response, Nasdaq believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8]

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–2017–096 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–NASDAQ–2017–096. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–096, and should be submitted on or before November 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22159 Filed 10–12–17; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81836; File No. SR–C2–2017–026]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

October 6, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2017, 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 and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule to correct an inadvertent marking error made to the Exhibit 5 in a previous rule filing.

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to correct an inadvertent marking error made to the Exhibit 5 in a previous rule filing. Specifically, on April 13, 2017, the Exchange filed a rule filing, SR–C2–2017–015, which proposed to eliminate certain PULSe fees, effective April 3, 2017.[5] The Exchange notes that it mistakenly used outdated text contained in Section 11 of the Fees Schedule in the Exhibit 5 of that filing. Particularly, prior to filing SR–C2–2017–015, the Exchange had reduced the monthly fee assessed to TPHs who either receive or send drop copies via a PULSe workstation. More specifically, if a customer receiving drop copies is a TPH, that TPH customer (the receiving TPH) is now charged a fee of $425 per month (down from $1000 per month), per PULSe broker from whom it receives drop copies via PULSe. If a customer receiving drop copies is a non-TPH, the PULSe broker (the sending TPH) who sends drop copies via PULSe to that customer is now charged a fee of $400 per month (down from $500 per month).[6] The Exhibit 5 filed in SR–C2–2017–015 however, inadvertently did not reflect the new prices that had previously been adopted for Drop Copy fees (*i.e.,* $425 per month and $400 per month). Rather it listed the older prices of $1,000 per month and $500 per month, respectively. The Exchange notes that it was not its intention to revert back to the old pricing and that no such change was otherwise implemented, referenced or implied in the 19b–4 of SR–C2–2017–008 or any other filing since then. Rather it was an inadvertent mistake that the Exchange seeks to correct.

Lastly, the Exchange notes that it had previously renamed the ''OATS Reporting'' fee to the ''Equity Order Reports'' fee.[7] The Exchange inadvertently did not incorporate the name change in the Exhibit 5 of SR–C2–2017–015. The Exchange notes that it was not its intention to revert back to the old name and that no such change was otherwise referenced or implied in the 19b–4 of SR–C2–2017–008 or any other filing since then.

Accordingly, the Exchange proposes to amend the Fees Schedule to reflect the accurate prices of the Drop Copy Fees and the accurate name of the Equity Order Reports fee. 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.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] 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 inadvertent marking error from a previous rule filing in order to accurately reflect the Drop Copy prices and the name of the Equity Order Reports fee will alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest.

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. As discussed above, the proposed change is merely intended to correct an inadvertent marking error made in a previous rule filing, which will alleviate potential confusion.

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

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[10] and subparagraph (f)(6) Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay. The Exchange notes that currently the Fees Schedule doesn't reflect accurate fees relating to Drop Copy fees and the accurate name of the Equity Order Reports fee. C2 also explains that the proposal would allow immediate correction of the Fees Schedule, and could avoid potential confusion to market participants regarding the applicability of its fees. The Commission believes that waiving

[5] The Exchange initially filed the proposed fee change on April 3, 2017 (SR–C2–2017–012). On April 13, 2017, the Exchange withdrew that filing and submitted SR–C2–2017–015. *See* Securities Exchange Act Release No. 80473 (April 17, 2017), 82 FR 18790 (April 21, 2017) (SR–C2–2017–015).

[6] *See* Securities Exchange Act Release No. 80031 (February 13, 2017), 82 FR 11087 (February 17, 2017) (SR–C2–2017–008). The Exchange notes that in the filing that adopted the Drop Copy fees, the appended footnote for the ''Drop Copy (received by non-TPH customer)'' fee mistakenly referenced the fee as $1,000/month instead of $500/month. *See* Securities Exchange Act Release No. 79807 (January 17, 2017), 82 FR 8238 (January 24, 2017) (SR–C2–2017–002).

[7] *Id.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to accurately represent the fees it charges and thereby avoid potential confusion of market participants. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–C2–2017–026 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–C2–2017–026. 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–C2–2017–026 and should be submitted on or before November 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22158 Filed 10–12–17; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81838; File No. SR–NASDAQ–2017–100]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reduce the Fees for Certain Investment Management Entities and Eligible Portfolio Companies

October 6, 2017.

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 September 26, 2017, 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, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reduce the fees for certain Investment Management Entities and Eligible Portfolio Companies.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2018.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

5910. The Nasdaq Global Market (Including the Nasdaq Global Select Market)

* * * * *

IM–5910–1. All-Inclusive Annual Listing Fee

(a)–(c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1)–(3) No change.

(4) Limited Partnerships [(effective January 1, 2017)]:

Up to 75 million shares $37,500
75+ to 100 million shares $50,000
100+ to 125 million shares $62,500
125+ to 150 million shares $67,500
Over 150 million shares $77,500

(5) Investment Management Entities and Eligible Portfolio Companies (effective January 1, 2018):

Nasdaq will apply a 50% fee discount to the annual fee otherwise owed under paragraph (d)(1) of this rule for Eligible Portfolio Companies and Investment Management Entities that have one or more Eligible Portfolio Companies. For purposes of this rule, an ''Investment Management Entity'' is a company listed on Nasdaq or another national securities exchange that manages private investment vehicles not registered under the Investment Company Act. An ''Eligible Portfolio Company'' of an Investment Management Entity is a Nasdaq-listed Company in which an Investment Management Entity has owned at least 20% of the common stock on a continuous basis since prior to that company's initial listing.

In order to qualify for this discount in any calendar year, a Company, other than a new listing, must submit satisfactory proof to Nasdaq no later than December 31st of the prior year that it satisfies the requirements specified above. A new listing that satisfies these requirements is eligible for the discount upon listing.

Notwithstanding the foregoing, if an Investment Management Entity or Eligible Portfolio Company would otherwise be subject to an All-Inclusive Annual Fee that is lower than the fee provided for in this paragraph (5), then the alternative fee schedule shall apply.

(e) No change.

* * * * *

5920. The Nasdaq Capital Market

* * * * *

IM–5920–1. All-Inclusive Annual Listing Fee

(a)–(c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1)–(3) No change.

(4) Limited Partnerships [(effective January 1, 2017)]:

Up to 75 million shares $30,000

Over 75 million shares $37,500

(5) Investment Management Entities and Eligible Portfolio Companies (effective January 1, 2018):

Nasdaq will apply a 50% fee discount to the annual fee otherwise owed under paragraph (d)(1) of this rule for Eligible Portfolio Companies and Investment Management Entities that have one or more Eligible Portfolio Companies. For purposes of this rule, an ''Investment Management Entity'' is a company listed on Nasdaq or another national securities exchange that manages private investment vehicles not registered under the Investment Company Act. An ''Eligible Portfolio Company'' of an Investment Management Entity is a Nasdaq-listed Company in which an Investment Management Entity has owned at least 20% of the common stock on a continuous basis since prior to that company's initial listing.

In order to qualify for this discount in any calendar year, a Company, other than a new listing, must submit satisfactory proof to Nasdaq no later than December 31st of the prior year that it satisfies the requirements specified above. A new listing that satisfies these requirements is eligible for the discount upon listing.

Notwithstanding the foregoing, if an Investment Management Entity or Eligible Portfolio Company would otherwise be subject to an All-Inclusive Annual Fee that is lower than the fee provided for in this paragraph (5), then the alternative fee schedule shall apply.

(e) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

Nasdaq proposes to reduce the fees for certain Investment Management Entities and Eligible Portfolio Companies. An Investment Management Entity for purposes of this provision would be defined as a company listed on Nasdaq or another national securities exchange which manages private investment vehicles that are not registered under the Investment Company Act. There are a small number of such companies that engage in the business of managing such private equity funds. Through these private equity funds, Investment Management Entities invest in private companies. An ''Eligible Portfolio Company'' of an Investment Management Entity is a Nasdaq-listed company in which the Investment Management Entity has owned at least 20% of the common stock on a continuous basis since prior to that company's initial listing.

Investment Management Entities typically provide significant managerial and advisory assistance to their portfolio companies, in part, based on their familiarity, as a public company listed on a national securities exchange, with the requirements for an exchange listing. An Investment Management Entity will frequently seek to exit its funds' investment in a privately-held portfolio company by conducting an initial public offering (IPO) on behalf of that portfolio company. The Investment Management Entity does not typically sell shares in the IPO but, rather, shares not sold in the IPO are gradually sold off over a period of years in the public market. While these Investment Management Entities have control or influence over the decision making of their portfolio companies in both their pre- and post-public phases, the decision as to where to list is typically made jointly by the portfolio company's senior management team and the Investment Management Entity. Nasdaq benefits from its ongoing relationships with these Investment Management Entities (and members of the management teams that had previously dealt with Nasdaq) when competing for the listing of their portfolio companies. In addition, Nasdaq benefits from the efficiencies in dealing with portfolio companies that are benefiting from the guidance and experience of the Investment Management Entities to which they are related.

Nasdaq incurs substantial costs in connection with its marketing to companies choosing a listing venue for their IPO. In those cases where the Exchange has a longstanding relationship with the Investment Management Entity controlling a listing applicant, Nasdaq's costs of marketing to the prospect company can be much lower than usual because of the Investment Management Entity's prior experience with Nasdaq. Typically, when pitching for the listing of a company that is choosing a listing venue for its IPO, Nasdaq incurs significant expense, including the time spent by its CEO and other senior management in preparing for and traveling to meetings with the prospect company, travel costs, the cost of developing pitching strategies and the cost of producing marketing materials. In addition, it has been the Exchange's experience that an Investment Management Entity puts high-quality and experienced management teams in place at its portfolio companies prior to listing and that the Investment Management Entity continues to provide significant support to those companies after listing. Consequently, those companies require lower levels of support from Nasdaq's business and regulation departments to assist them in navigating the initial and continued listing process and Nasdaq devotes significantly smaller staff resources to those companies on average than to the typical newly-listed company that is not controlled prior to listing by an Investment Management Entity.

Nasdaq believes that these cost savings attributable to its relationship with an Investment Management Entity allow for a reduction in continued listing fees to the Investment Management Entities that are significant shareholders in other Nasdaq-listed companies, as well as to those portfolio companies that have listed on Nasdaq as a consequence of those relationships. Nasdaq also believes that the proposed fee reduction would provide an incentive to Investment Management

Entities to list on Nasdaq (or remain listed) themselves, as well as to list additional portfolio companies on Nasdaq. Accordingly, Nasdaq proposes to offer Eligible Portfolio Companies and Investment Management Entities that have one or more Eligible Portfolio Companies listed on Nasdaq a 50% discount to the annual fee otherwise owed by issuers of equity securities.

A new listing that satisfies these requirements will be eligible for the discount upon listing based upon Nasdaq's review of public filings disclosing ownership. In order to qualify for this discount in any subsequent calendar year, an issuer must submit satisfactory proof to Nasdaq no later than December 31st of the prior year that it is eligible for the discount.[3] Investment Management Entities that do not have Eligible Portfolio Companies listed on Nasdaq, are not eligible to receive the discount and will be billed on the same fee schedule as other equity securities.

The proposed amendment will affect the All-Inclusive Annual Listing Fee schedule[4] on the Nasdaq Global Market, the Nasdaq Global Select Market and the Nasdaq Capital Market.[5] In 2014, when Nasdaq adopted the All-Inclusive Annual Listing Fee schedule, Nasdaq considered various factors that distinguish companies, including market tier, shares outstanding and security type, as well as the perceived use of various Nasdaq regulatory and support services by companies of various characteristics.[6] Due to the relatively few Investment Management Entities and Eligible Portfolio Companies listed on the Exchange at that time, Nasdaq's analysis did not focus on the special characteristics of such companies. Upon further consideration, Nasdaq now believes that the cost savings attributable to its relationship with Investment Management Entities and generally lower levels of support required for Eligible Portfolio Companies and Investment Management Entities with listed Eligible Portfolio Companies warrant a reduced fee.

Nasdaq notes that American Depositary Receipts (ADRs), closed-end funds and limited partnerships also have different fee schedules than other listed equity securities. Nasdaq believes that the characteristics of ADRs, closed-end funds and limited partnerships are different than the characteristics of Investment Management Entities and Eligible Portfolio Companies and that it is therefore appropriate to apply a different fee schedule for Investment Management Entities and Eligible Portfolio Companies. If an Eligible Portfolio Company or an Investment Management Entity with listed Eligible Portfolio Companies lists ADRs, or is a closed-end fund or a limited partnership, its All-Inclusive fee will be the lower of: (i) The fee applicable to ADRs, closed-end funds or limited partnerships, as applicable, or (ii) the 50% fee discount to the fee applicable to other equity securities listed on the same tier.

Nasdaq notes that no other company will be required to pay higher fees as a result of the proposed amendments and represents that the proposed fee change will have no impact on the resources available for its regulatory programs.

The proposed fee change will be operative January 1, 2018.[7]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] 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 not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues. As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable, or unfairly discriminatory.

Nasdaq believes that the proposed fee change reducing the fee paid by Eligible Portfolio Companies and Investment Management Entities with listed Eligible Portfolio Companies is reasonable and not unfairly discriminatory because it recognizes the reduced regulatory and business costs Nasdaq incurs for listing these Investment Management Entities and Eligible Portfolio Companies. Specifically, Nasdaq benefits from significant cost and resource-utilization savings when listing portfolio companies of Investment Management Entities as it does not have to engage in significant marketing efforts because the decision makers at the Investment Management Entity are already familiar with Nasdaq. Typically when pitching for the listing of a company that is choosing a listing venue for its IPO, Nasdaq incurs significant expense, including: The time spent by its CEO and other senior management in preparing for and traveling to meetings with the prospect company, travel costs, the cost of developing pitching strategies and the cost of producing marketing materials. As Nasdaq saves much of this expense when pitching to a portfolio company of an Investment Management Entity with which Nasdaq has an established relationship, Nasdaq believes that it is reasonable to share some of those savings with listed Investment Management Entities and their Eligible Portfolio Companies. In addition, Nasdaq typically has lower costs and resource utilization in connection with the initial and continued listing of Eligible Portfolio Companies than with other new listings, as the Exchange benefits from dealing with the high-quality and experienced management teams Investment Management Entities put in place at portfolio companies prior to listing and the ongoing relationship those companies maintain with staff at the Investment Management Entity, who can share their experience as a public company listed on a national securities exchange. Nasdaq also believes that the proposed discount is reasonable in that it will create a reasonable commercial incentive for Investment Management Entities and the management of their portfolio companies to consider listing on Nasdaq and to remain listed.

Nasdaq believes that it is not unfairly discriminatory to discount continued listing fees as a means of recognizing its cost savings related to the listing of an Investment Management Entity and its Eligible Portfolio Companies. This is because a significant portion of the Exchange's savings arise from the efficiencies it experiences on an ongoing basis in dealing with Eligible Portfolio Companies for such time as the Investment Management Entity retains a

[3] Nasdaq will also review public filings to determine if a company remains eligible to receive a discount.

[4] In 2014, Nasdaq adopted an All-Inclusive Annual Listing Fee schedule. Securities Exchange Act Release No. 73647 (November 19, 2014), 79 FR 70232 (November 25, 2014) (SR–NASDAQ–2014–87). Since then, newly listed companies have been subject to the All-Inclusive fee structure and other listed companies could have elected to be on the All-Inclusive fee structure. All companies will be subject to the All-Inclusive fee structure effective January 1, 2018.

[5] Listing Rule 5910 provides that fee schedules for the Nasdaq Global Select Market are the same fee schedules as for the Nasdaq Global Market.

[6] *See* Securities Exchange Act Release No. 73647, *supra* note 4.

[7] Nasdaq also proposes to delete an old effective date from IM–5910–1(d)(4) and IM–5920–1(d)(4).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

significant investment and is thereby motivated to provide ongoing advice and assistance. These reduced costs are a non-discriminatory reason to charge an Investment Management Entity and its Eligible Portfolio Companies a lower All-Inclusive Annual Listing Fee.

Currently, ADRs, closed-end funds and limited partnerships also pay lower All-Inclusive Annual Listing Fees than other issuers of equity securities. Nasdaq believes it is appropriate to apply a fee schedule to Investment Management Entities and Eligible Portfolio Companies that is different from those applicable to either ADRs, closed-end funds or limited partnerships due to their differing characteristics. Specifically, Nasdaq charges lower listing fees for ADRs because, among other differences, the U.S. listing is not typically the issuer of an ADR's primary listing.[10] Similarly, Nasdaq charges lower listing fees for closed-end funds because they are particularly sensitive to the expenses they incur, given that they compete for investment dollars based on return.[11] Finally, Nasdaq charges lower listing fees for limited partnerships because they are not subject to most corporate governance requirements.[12] As a result, offering a different discount to Investment Management Entities and their Eligible Portfolio Companies on the All-Inclusive Annual Fee schedule than to ADRs, closed-end funds and limited partnerships is not inequitable or unfairly discriminatory.

While the proposed fee reduction only applies to Investment Management Entities and their Eligible Portfolio Companies on the All-Inclusive Annual Fee schedule, Nasdaq notes that all companies will transition to that fee schedule in 2018 at the same time that this fee change will become effective.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5) of the Act[13] in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the amount of revenue forgone by allowing an Investment Management Entity and its Eligible Portfolio Companies to pay lower fees is not substantial, and the reduced fees may result in more Investment Management Entities and their Eligible Portfolio Companies listing on Nasdaq, thereby increasing the resources available for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected. Consequently, Nasdaq believes that the potential loss of revenue from the reduction of fees for Investment Management Entities and their Eligible Portfolio Companies, as proposed, will not hinder its ability to fulfill its regulatory responsibilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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 market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. This rule proposal does not burden competition with other listing venues, which are similarly free to set their fees. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. 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–2017–100 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–NASDAQ–2017–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–100, and should be submitted on or before November 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–22160 Filed 10–12–17; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* Securities Exchange Act Release No. 73647, *supra* note 4.

[11] *Id.*

[12] *See* Securities Exchange Act Release No. 79770 (January 10, 2017), 82 FR 4947 (January 17, 2017) (SR–NASDAQ–2016–173).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10160]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Sunken Cities: Egypt's Lost Worlds'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Sunken Cities: Egypt's Lost Worlds,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Saint Louis Art Museum, Saint Louis, Missouri, from on or about March 25, 2018, until on or about September 9, 2018, at the Minneapolis Institute of Art, Minneapolis, Minnesota, from on or about October 28, 2018, until on or about April 14, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–22150 Filed 10–12–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10157]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Repentant Monk: Illusion and Disillusion in the Art of Chen Hongshou'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Repentant Monk: Illusion and Disillusion in the Art of Chen Hongshou,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the University of California, Berkeley Art Museum and Pacific Film Archive, Berkeley, California, from on or about October 27, 2017, until on or about January 28, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–22149 Filed 10–12–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Release and Permanent Closure of the St. Clair Regional Airport, St. Clair, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of release and permanent closure of the St. Clair Regional Airport, St. Clair, Missouri.

SUMMARY: The FAA is publishing this notice of a pending action required by statute. Public Law 113–285 requires the FAA to release the City of St. Clair, Missouri, from all restrictions, conditions, and limitations on the use, encumbrance, conveyance, and closure of the St. Clair Regional Airport upon the satisfaction of certain conditions of the St. Clair Regional Airport (K39). On August 1, 2017, the City of St. Clair, Missouri provided written notice to the Federal Aviation Administration (FAA) of its intent to permanently close the St. Clair Regional Airport (K39), in St. Clair, Missouri. The City of St. Clair provided this notice to the FAA in excess of 30 days before the permanent closure. The FAA hereby publishes the City of St. Clair's notice of permanent closure of the St. Clair Regional Airport.

DATES: The permanent closure of the airport is applicable November 13, 2017.

FOR FURTHER INFORMATION CONTACT: Jim A. Johnson, FAA Central Region Airports Division, Airports Division Director, 901 Locust, Room 364, Kansas City, Missouri 64106, (816) 329–2600

SUPPLEMENTARY INFORMATION: Public Law 113–285 requires the FAA to release the City of St. Clair, Missouri, of restrictions, conditions, and limitations on the use, encumbrance, conveyance, and closure of the Airport upon the satisfaction of certain conditions of the St. Clair Regional Airport (K39). This non-towered, general aviation airport consist of approximately 79 acres and 6 based aircraft. Title 49 U.S.C. 46319 states that a public agency (as defined in section 47102) may not permanently close an airport listed in the National Plan of Integrated Airport Systems under section 47103 without providing written notice to the Administrator of the FAA at least 30 days before the date of the closure. The FAA recognizes that the City of St. Clair met this requirement on August 1, 2017.

Issued in Kansas City, Missouri, on October 6, 2017.

Jim A. Johnson,

Director, Airports Division, Central Region.

[FR Doc. 2017–22231 Filed 10–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked and removed from the list of Specially Designated Nationals and Blocked Persons.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*http://www.treasury.gov/ofac*).

Notice of OFAC Actions

On October 6, 2017, OFAC determined that the property and interests in property of the following persons are unblocked and removed from the SDN List under the relevant sanctions authority listed below.

Individuals

1. GALINDO MARTINEZ, Fernando Alberto, c/o MELRUX RICA S PIZZA, Bogota, Colombia; Calle 24C No. 75–59, Bogota, Colombia; Calle 119A No. 57–40 Torre 6 Ap. 1018, Bogota, Colombia; Carrera 45 No. 24A–05, Bogota, Colombia; Carrera 75 No. 24C–22, Bogota, Colombia; DOB 09 Apr 1971; Cedula No. 79574058 (Colombia) (individual) [SDNTK].

2. LOPEZ MEJIA, Claudia Estela, c/o DOLPHIN DIVE SCHOOL S.A., Cartagena, Colombia; c/o INVERSIONES CIFUENTES Y CIA. S. EN C., Medellin, Colombia; c/o LE CLAUDE, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; c/o OPERADORA NUEVA GRANADA, S.A. DE C.V., Mexico City, Distrito Federal, Mexico; Camino del Remanso, No. 80 A, Planta Baja, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Camino del Remanso No. 80 Interior 2, Colonia Lomas Country Club, Huixquilucan, Estado de Mexico C.P. 52779, Mexico; Tamarindos 105, Colonia Bosques de las Lomas, Naucalpan de Juarez, Estado de Mexico, Mexico; DOB 16 Dec 1972; POB Belen de Umbria, Risaralda, Colombia; Cedula No. 42104723 (Colombia); Passport AK572650 (Colombia) (individual) [SDNTK].

3. LUNA CORDOBA, Rosa Edelmira, c/o ADMINISTRADORA GANADERA EL 45 LTDA., Medellin, Colombia; c/o CASA DEL GANADERO S.A., Medellin, Colombia; c/o ELECTROMUEBLES DEL BAJO CAUCA, Medellin, Colombia; c/o GANADERIA LUNA HERMANOS LTDA., Medellin, Colombia; c/o INVERSIONES EL MOMENTO S.A., Medellin, Colombia; c/o INVERSIONES LICOM LTDA., Medellin, Colombia; c/o SOCIEDAD MINERA GRIFOS S.A., El Bagre, Antioquia, Colombia; Calle 10E No. 25–41, Medellin, Colombia; Carrera 42 No. 34–15, Medellin, Colombia; 801 Brickell Key Blvd., unit 1907, Miami, FL 33131, United States; 13315 SW 128 Passage, Miami, FL 33186, United States; DOB 18 Sep 1960; POB Puerto Asis, Putumayo, Colombia; Cedula No. 41101742 (Colombia); Passport AK031225 (Colombia) (individual) [SDNT].

Entities

1. BALBOA BANK & TRUST, CORP. (a.k.a. BALBOA BANK AND TRUST, CORP.), Edificio Balboa Bank & Trust, Calle 50 y Calle Beatriz Maria Cabal, Panama, Panama; SWIFT/BIC BTACPAPA; RUC # 4199990–1–427208 (Panama) [SDNTK].

2. BALBOA SECURITIES, CORP., Edificio Balboa Bank & Trust, Calle 50 y Calle Beatriz Maria Cabal, Panama, Panama; RUC # 965431–1–528815 (Panama) [SDNTK].

3. STRATEGIC INVESTORS GROUP INC. (a.k.a. ''SI GROUP''), Edificio Balboa Bank & Trust, Calle 50 y Calle Beatriz Maria Cabal, Panama, Panama; RUC # 1649734–1–675348 (Panama) [SDNTK].

4. PERSHORE INVESTMENTS S.A., Edificio Balboa Bank & Trust, Calle 50 y Calle Beatriz Maria Cabal, Panama, Panama; RUC # 1420780–1–631797 (Panama) [SDNTK].

5. STRATEGIC OIL CORP., Edificio Balboa Bank & Trust, Calle 50 y Calle Beatriz Maria Cabal, Panama, Panama; RUC # 2432399–1–809429 (Panama) [SDNTK].

Dated: October 6, 2017.

Mark Samara,

Acting Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2017–22180 Filed 10–12–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions; Sanctions Actions Pursuant to Executive Order 13581

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked pursuant to Executive Order 13581 of July 24, 2011, ''Blocking Property of Transnational Criminal Organizations.''

DATES: OFAC's actions described in this notice were effective on October 4, 2017.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant 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, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available from OFAC's Web site at *http://www.treasury.gov/ofac.*

Notice of OFAC Actions

On October 4, 2017, OFAC removed from the SDN List the persons listed below, whose property and interests in property were blocked pursuant to Executive Order 13581.

Individuals

1. DAVIS, Robert Paul (a.k.a. DAVIS, Paul; a.k.a. DAVIS, Paul Nadin; a.k.a. DAVIS, R. Paul Nadin; a.k.a. DAVIS, Robert; a.k.a. NADIN–DAVIS, Robert Paul), 45 Knock Rushen Scarlett, Castletown, Isle of Man IM9 1TQ, United Kingdom; 69 Buchanan Street, Glasgow, Scotland G1 3HL, United Kingdom; D11, Glyme Court, Oxford Office Village, Langford Lane, Kidlington, Oxon, England OX5 1LQ, United Kingdom; Avondale House, Queens Promenade, Douglas, Isle of Man IM2 4ND, United Kingdom; Parkshot House, 5 Kew Road, Richmond, Surrey TW9 2PR, United Kingdom; 1 Ros Na Greine, Balleycasey, Shannon, Ireland; 1 Ros Na Greinne, Balleycasey, Shannon, Co. Clare, Ireland; 70 Empress Court, Oxford, United Kingdom; 2571 Carling Avenue, Ottawa, Ontario K2B 7H7, Canada; DOB 19 Jan 1956; POB Fulwood, United Kingdom; Passport 460085575 (United Kingdom); alt. Passport VF275682 (Canada); alt. Passport BD103703 (Canada) (individual) [TCO] (Linked To: PACNET AIR; Linked To: PACNET EUROPE; Linked To: PACNET ZAR; Linked To: PACNET INDIA; Linked To: ACCU–RATE CORPORATION; Linked To: CHEXX ITALIA SRL; Linked To: CHEXX INC.; Linked To: COUNTING HOUSE SERVICES LTD.; Linked To: THE PAYMENTS FACTORY LTD.; Linked To: PACNET SERVICES LTD.; Linked To: PACNET SERVICES (IRELAND) LIMITED; Linked To: AEROPAY LIMITED; Linked To: MANX RARE BREEDS LTD.; Linked To: PACNET GROUP).

2. DAY, Rosanne Phyllis (a.k.a. DAY, Rosanne; a.k.a. DRONSFIELD, Rosanne Phyllis), 3928 West 22nd Avenue, Vancouver, British Columbia V65 1K1, Canada; 69 Buchanan Street, Glasgow, Scotland G1 3HL, United Kingdom; Parkshot House, 5 Kew Road, Richmond, Surrey TW9 2PR, United Kingdom; DOB 12 Mar 1968; nationality United Kingdom (individual) [TCO] (Linked To: DEEPCOVE LABS; Linked To: PACNET SERVICES LTD.; Linked To: PACNET ZAR; Linked To: CHEXX INC.; Linked To: PACNET EUROPE; Linked To: PACNET GROUP).

3. HUMPHREYS, Gerard Alphonsus (a.k.a. HUMPHREYS, Gerry), Brittas House, Brittas, County Limerick, Ireland; D11 Glyme Court, Oxford Office Village, Langford Lane, Oxford Oxon OX5 1LQ, United Kingdom; DOB 17 Jul 1958; nationality Ireland; Passport B781829 (Ireland) (individual) [TCO] (Linked To: PACNET AIR; Linked To: PACNET HOLDINGS LIMITED; Linked To: CHEXX INC.; Linked To: PACNET SERVICES (IRELAND) LIMITED; Linked To: AEROPAY LIMITED; Linked To: PACNET EUROPE; Linked To: PACNET GROUP).

Entity

1. MANX RARE BREEDS LTD. (a.k.a. BALLALOAGHTAN FARM), The Barn Ballaloaghtan Kerrowkeil Hamlet, Grenaby IM9 3BB, United Kingdom; Web site *www.manxrarebreeds.com* [TCO] (Linked To: DAVIS, Robert Paul; Linked To: PACNET GROUP).

U.S. persons are permitted to engage in all lawful transactions with the persons listed above.

Dated: October 4, 2017.

John E. Smith

Director, Office of Foreign Assets Control.

[FR Doc. 2017–22178 Filed 10–12–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Fiscal Year 2016 Service Contract Inventory

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of Fiscal Year 2016 service contract inventory.

SUMMARY: The Department of the Treasury's Fiscal Year (FY) 2016 Service Contract Inventory. The Inventory lists all service contract actions over $25,000 awarded in FY 2016 and funded by Treasury, to include contract actions made on the Department's behalf by other agencies. Contract actions awarded by the Department on another agency's behalf with the other agency's funding are excluded.

FOR FURTHER INFORMATION CONTACT: Frank Bajowski, Office of the Procurement Executive, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–6760 or *OfficeoftheProcurementExecutive@treasury.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Public Law (Pub. L.) 111–117, agencies required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105–270; 31 U.S.C. 501 note), other than the Department of the Defense, shall also prepare an annual service contract inventory. Treasury's FY 2016 service contract inventory data is included in the government-wide inventory posted on *www.acquisition.gov.* The government-wide inventory can be filtered to display the inventory data specific to Treasury.

Dated: October 5, 2017.

Iris B. Cooper,

Senior Procurement Executive.

[FR Doc. 2017–22248 Filed 10–12–17; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 82 Friday,

No. 197 October 13, 2017

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 54

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Part 147

Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD–9827]

RIN 1545–BN92

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB83

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 147

[CMS–9940–IFC]

RIN 0938–AT20

Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; and Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Interim final rules with request for comments.

SUMMARY: The United States has a long history of providing conscience protections in the regulation of health care for entities and individuals with objections based on religious beliefs and moral convictions. These interim final rules expand exemptions to protect religious beliefs for certain entities and individuals whose health plans are subject to a mandate of contraceptive coverage through guidance issued pursuant to the Patient Protection and Affordable Care Act. These rules do not alter the discretion of the Health Resources and Services Administration (HRSA), a component of the United States Department of Health and Human Services (HHS), to maintain the guidelines requiring contraceptive coverage where no regulatorily recognized objection exists. These rules also leave the ''accommodation'' process in place as an optional process for certain exempt entities that wish to use it voluntarily. These rules do not alter multiple other Federal programs that provide free or subsidized contraceptives for women at risk of unintended pregnancy.

DATES: *Effective date:* These interim final rules and temporary regulations are effective on October 6, 2017.

Comment date: Written comments on these interim final rules are invited and must be received by December 5, 2017.

ADDRESSES: Written comments may be submitted to the Department of Health and Human Services as specified below. Any comment that is submitted will be shared with the Department of Labor and the Department of the Treasury, and will also be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously. Comments, identified by ''Preventive Services,'' may be submitted one of four ways (please choose only one of the ways listed)

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9940–IFC, 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–9940–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Comments received will be posted without change to *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Wu (310) 492–4305 or *marketreform@cms.hhs.gov* for Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS), Amber Rivers or Matthew Litton, Employee Benefits Security Administration (EBSA), Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–5500.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*www.dol.gov/ebsa*). Information from HHS on private health insurance coverage can be found on CMS's Web site (*www.cms.gov/cciio*), and information on health care reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Congress has consistently sought to protect religious beliefs in the context of health care and human services, including health insurance, even as it has sought to promote access to health services.[1] Against that backdrop,

[1] See, for example, 42 U.S.C. 300a–7 (protecting individuals and health care entities from being required to provide or assist sterilizations, abortions, or other lawful health services if it would violate their ''religious beliefs or moral convictions''); 42 U.S.C. 238n (protecting individuals and entities that object to abortion); Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d) (Departments of Labor, HHS, and Education, and Related Agencies Appropriations Act), Public Law 115–31 (protecting any ''health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan'' in objecting to abortion for any reason); *Id.* at Div. C, Title VIII, Sec. 808 (regarding any requirement of ''the provision of

Congress granted the Health Resources and Services Administration (HRSA), a component of the United States Department of Health and Human Services (HHS), discretion under the Patient Protection and Affordable Care Act to specify that certain group health plans and health insurance issuers shall cover, ''with respect to women, such additional preventive care and screenings . . . as provided for in comprehensive guidelines supported by'' by HRSA (the ''Guidelines''). Public Health Service Act section 2713(a)(4). HRSA exercised that discretion under the last Administration to require health coverage for, among other things, certain contraceptive services,[2] while the administering agencies—the Departments of Health and Human Services, Labor, and the Treasury (collectively, ''the Departments'' [3])—exercised the same discretion to allow exemptions to those requirements. Through rulemaking, including three interim final rules, the Departments allowed exemptions and accommodations for certain religious objectors where the Guidelines require coverage of contraceptive services. Many individuals and entities challenged the contraceptive coverage requirement and regulations (hereinafter, the ''contraceptive Mandate,'' or the ''Mandate'') as being inconsistent with various legal protections, including the Religious Freedom Restoration Act, 42 U.S.C. 2000bb–1. Much of that litigation continues to this day.

The Departments have recently exercised our discretion to reevaluate these exemptions and accommodations. This evaluation includes consideration of various factors, such as the interests served by the existing Guidelines, regulations, and accommodation process; [4] the extensive litigation; Executive Order 13798, ''Promoting Free Speech and Religious Liberty'' (May 4, 2017); protection of the free exercise of religion in the First Amendment and by Congress in the Religious Freedom Restoration Act of 1993; Congress' history of providing protections for religious beliefs regarding certain health services (including contraception, sterilization, and items or services believed to involve abortion); the discretion afforded under section 2713(a)(4) of the PHS Act; the structure and intent of that provision in the broader context of section 2713 and the Patient Protection and Affordable Care Act; the regulatory process and comments submitted in various requests for public comments (including in the Departments' 2016 Request for Information).

In light of these factors, the Departments issue these new interim final rules to better balance the Government's interest in ensuring coverage for contraceptive and sterilization services in relation to the Government's interests, including as reflected throughout Federal law, to provide conscience protections for individuals and entities with sincerely held religious beliefs in certain health care contexts, and to minimize burdens in our regulation of the health insurance market.

A. The Affordable Care Act

Collectively, the Patient Protection and Affordable Care Act (Pub. L. 111–148), enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), enacted on March 30, 2010, are known as the Affordable Care Act. In signing the Affordable Care Act, President Obama issued Executive Order 13535 (March 24, 2010), which declared that, ''[u]nder the Act, longstanding Federal laws to protect conscience (such as the Church Amendment, 42 U.S.C. 300a–7, and the Weldon Amendment, section 508(d)(1) of Pub. L. 111–8) remain intact'' and that ''[n]umerous executive agencies have a role in ensuring that these restrictions are enforced, including the HHS.''

The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. In addition, the Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act of 1974 (ERISA) and section 9815(a)(1) to the Internal Revenue Code (Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and thereby make them applicable to certain group health plans regulated under ERISA or the Code. The sections of the PHS Act incorporated into ERISA and the Code are sections 2701 through 2728 of the PHS Act.

These interim final rules concern section 2713 of the PHS Act. Where it applies, section 2713(a)(4) of the PHS Act requires coverage without cost sharing for ''such additional'' women's preventive care and screenings ''as provided for'' and ''supported by'' guidelines developed by HRSA/HHS. The Congress did not specify any particular additional preventive care and screenings with respect to women that HRSA could or should include in its Guidelines, nor did Congress indicate whether the Guidelines should include contraception and sterilization.

contraceptive coverage by health insurance plans'' in the District of Columbia, ''it is the intent of Congress that any legislation enacted on such issue should include a 'conscience clause' which provides exceptions for religious beliefs and moral convictions.''); *Id.* at Div. C, Title VII, Sec. 726(c) (Financial Services and General Government Appropriations Act) (protecting individuals who object to prescribing or providing contraceptives contrary to their ''religious beliefs or moral convictions''); *Id.* at Div. I, Title III (Department of State, Foreign Operations, and Related Programs Appropriations Act) (protecting applicants for family planning funds based on their ''religious or conscientious commitment to offer only natural family planning''); 42 U.S.C. 290bb–36 (prohibiting the statutory section from being construed to require suicide related treatment services for youth where the parents or legal guardians object based on ''religious beliefs or moral objections''); 42 U.S.C. 290kk–1 (protecting the religious character of organizations participating in certain programs and the religious freedom of beneficiaries of the programs); 42 U.S.C. 300x–65 (protecting the religious character of organizations and the religious freedom of individuals involved in the use of government funds to provide substance abuse services); 42 U.S.C. 604a (protecting the religious character of organizations and the religious freedom of beneficiaries involved in the use of government assistance to needy families); 42 U.S.C. 1395w–22(j)(3)(B) (protecting against forced counseling or referrals in Medicare Choice, now Medicare Advantage, managed care plans with respect to objections based on ''moral or religious grounds''); 42 U.S.C. 1396a(w)(3) (ensuring particular Federal law does not infringe on ''conscience'' as protected in State law concerning advance directives); 42 U.S.C. 1396u–2(b)(3) (protecting against forced counseling or referrals in Medicaid managed care plans with respect to objections based on ''moral or religious grounds''); 42 U.S.C. 5106i (prohibiting certain Federal statutes from being construed to require that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian); 42 U.S.C. 2996f(b) (protecting objection to abortion funding in legal services assistance grants based on ''religious beliefs or moral convictions''); 42 U.S.C. 14406 (protecting organizations and health providers from being required to inform or counsel persons pertaining to assisted suicide); 42 U.S.C. 18023 (blocking any requirement that issuers or exchanges must cover abortion); 42 U.S.C. 18113 (protecting health plans or health providers from being required to provide an item or service that helps cause assisted suicide); also, see 8 U.S.C. 1182(g) (protecting vaccination objections by ''aliens'' due to ''religious beliefs or moral convictions''); 18 U.S.C. 3597 (protecting objectors to participation in Federal executions based on ''moral or religious convictions''); 20 U.S.C. 1688 (prohibiting sex discrimination law to be used to require assistance in abortion for any reason); 22 U.S.C. 7631(d) (protecting entities from being required to use HIV/AIDS funds contrary to their ''religious or moral objection'').

[2] This document's references to ''contraception,'' ''contraceptive,'' ''contraceptive coverage,'' or ''contraceptive services'' generally includes contraceptives, sterilization, and related patient education and counseling, unless otherwise indicated.

[3] Note, however, that in sections under headings listing only two of the three Departments, the term ''Departments'' generally refers only to the two Departments listed in the heading.

[4] In this document, we generally use ''accommodation'' and ''accommodation process'' interchangeably.

The Departments have consistently interpreted section 2714(a)(4) PHS Act's grant of authority to include broad discretion to decide the extent to which HRSA will provide for and support the coverage of additional women's preventive care and screenings in the Guidelines. In turn, the Departments have interpreted that discretion to include the ability to exempt entities from coverage requirements announced in HRSA's Guidelines. That interpretation is rooted in the text of section 2713(a)(4) of the PHS Act, which allows HRSA to decide the extent to which the Guidelines will provide for and support the coverage of additional women's preventive care and screenings.

Accordingly, the Departments have consistently interpreted section 2713(a)(4) of the PHS Act's reference to ''comprehensive guidelines supported by HRSA for purposes of this paragraph'' to grant HRSA authority to develop such Guidelines. And because the text refers to Guidelines ''supported by HRSA for purposes of this paragraph,'' the Departments have consistently interpreted that authority to afford HRSA broad discretion to consider the requirements of coverage and cost-sharing in determining the nature and extent of preventive care and screenings recommended in the guidelines. (76 FR 46623). As the Departments have noted, these Guidelines are different from ''the other guidelines referenced in section 2713(a) of the PHS Act, which pre-dated the Affordable Care Act and were originally issued for purposes of identifying the non-binding recommended care that providers should provide to patients.'' Id. Guidelines developed as nonbinding recommendations for care implicate significantly different legal and policy concerns than guidelines developed for a mandatory coverage requirement. To guide HRSA in exercising the discretion afforded to it in section 2713(a)(4) of the PHS Act, the Departments have previously promulgated regulations defining the scope of permissible exemptions and accommodations for such guidelines. (45 CFR 147.131). The interim final rules set forth herein are a necessary and appropriate exercise of the authority of HHS, of which HRSA is a component, and of the authority delegated to the Departments collectively as administrators of the statutes. (26 U.S.C. 9833; 29 U.S.C. 1191c; 42 U.S.C. 300gg–92)

Our interpretation of section 2713(a)(4) of the PHS Act is confirmed by the Affordable Care Act's statutory structure. Congress did not intend to require entirely uniform coverage of preventive services (76 FR 46623). To the contrary, Congress carved out an exemption from section 2713 of the PHS Act for grandfathered plans. In contrast, this exemption is not applicable to many of the other provisions in Title I of the Affordable Care Act—provisions previously referred to by the Departments as providing ''particularly significant protections.'' (75 FR 34540). Those provisions include: Section 2704 of the PHS Act, which prohibits preexisting condition exclusions or other discrimination based on health status in group health coverage; section 2708 of the PHS Act, which prohibits excessive waiting periods (as of January 1, 2014); section 2711 of the PHS Act, which relates to lifetime limits; section 2712 of the PHS Act, which prohibits rescission of health insurance coverage; section 2714 of the PHS Act, which extends dependent coverage until age 26; and section 2718 of the PHS Act, which imposes a medical loss ratio on health insurance issuers in the individual and group markets (for insured coverage), or requires them to provide rebates to policyholders. (75 FR 34538, 34540, 34542). Consequently, of the 150 million nonelderly people in America with employer-sponsored health coverage, approximately 25.5 million are estimated to be enrolled in grandfathered plans not subject to section 2713 of the PHS Act.[5] As the Supreme Court observed, ''there is no legal requirement that grandfathered plans ever be phased out.'' *Burwell* v. *Hobby Lobby Stores, Inc.,* 134 S. Ct. 2751, 2764 n.10 (2014).

The Departments' interpretation of section 2713(a)(4) of the PHS Act to permit HRSA to establish exemptions from the Guidelines, and of the Departments' own authority as administering agencies to guide HRSA in establishing such exemptions, is also consistent with Executive Order 13535. That order, issued upon the signing of the Affordable Care Act, specified that ''longstanding Federal laws to protect conscience * * * remain intact,'' including laws that protect religious beliefs (and moral convictions) from certain requirements in the health care context. While the text of Executive Order 13535 does not require the expanded exemptions issued in these interim final rules, the expanded exemptions are, as explained below, consistent with longstanding Federal laws to protect religious beliefs regarding certain health matters, and are consistent with the intent that the Affordable Care Act would be implemented in accordance with the protections set forth in those laws.

B. The Regulations Concerning Women's Preventive Services

On July 19, 2010, the Departments issued interim final rules implementing section 2713 of the PHS Act (75 FR 41726). Those interim final rules charged HRSA with developing the Guidelines authorized by section 2713(a)(4) of the PHS.

1. The Institute of Medicine Report

In developing the Guidelines, HRSA relied on an independent report from the Institute of Medicine (IOM, now known as the National Academy of Medicine) on women's preventive services, issued on July 19, 2011, ''Clinical Preventive Services for Women, Closing the Gaps'' (IOM 2011). The IOM's report was funded by the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE), pursuant to a funding opportunity that charged the IOM to conduct a review of effective preventive services to ensure women's health and well-being.[6]

The IOM made a number of recommendations with respect to women's preventive services. As relevant here, the IOM recommended that the Guidelines cover the full range of Food and Drug Administration (FDA)-approved contraceptive methods, sterilization procedures, and patient education and counseling for women with reproductive capacity. Because FDA includes in the category of ''contraceptives'' certain drugs and devices that may not only prevent conception (fertilization), but may also prevent implantation of an embryo,[7] the IOM's recommendation included several contraceptive methods that many persons and organizations believe are abortifacient—that is, as causing early abortion—and which they conscientiously oppose for that reason

[5] Kaiser Family Foundation & Health Research & Educational Trust, ''Employer Health Benefits, 2017 Annual Survey,'' available at *http://files.kff.org/attachment/Report-Employer-Health-Benefits-Annual-Survey-2017.*

[6] Because section 2713(a)(4) of the PHS Act specifies that the HRSA Guidelines shall include preventive care and screenings ''with respect to women,'' the Guidelines exclude services relating to a man's reproductive capacity, such as vasectomies and condoms.

[7] FDA's guide ''Birth Control: Medicines To Help You,'' specifies that various approved contraceptives, including Levonorgestrel, Ulipristal Acetate, and IUDs, work mainly by preventing fertilization and ''may also work * * * by preventing attachment (implantation) to the womb (uterus)'' of a human embryo after fertilization. Available at *https://www.fda.gov/forconsumers/byaudience/forwomen/freepublications/ucm313215.htm.*

distinct from whether they also oppose contraception or sterilization.

One of the 16 members of the IOM committee, Dr. Anthony LoSasso, a Professor at the University of Illinois at Chicago School of Public Health, wrote a formal dissenting opinion. He argued that the IOM committee did not have sufficient time to evaluate fully the evidence on whether the use of preventive services beyond those encompassed by the United States Preventive Services Task Force (USPSTF), HRSA's Bright Futures Project, and the Advisory Committee on Immunization Practices (ACIP) leads to lower rates of disability or disease and increased rates of well-being. He further argued that ''the recommendations were made without high quality, systematic evidence of the preventive nature of the services considered,'' and that ''the committee process for evaluation of the evidence lacked transparency and was largely subject to the preferences of the committee's composition. Troublingly, the process tended to result in a mix of objective and subjective determinations filtered through a lens of advocacy.'' Dr. LoSasso also raised concerns that the committee did not have time to develop a framework for determining whether coverage of any given preventive service leads to a reduction in healthcare expenditure.[8] (IOM 2011 at 231–32). In its response to Dr. LoSasso, the other 15 committee members stated, in part, that ''At the first committee meeting, it was agreed that cost considerations were outside the scope of the charge, and that the committee should not attempt to duplicate the disparate review processes used by other bodies, such as the USPSTF, ACIP, and Bright Futures. HHS, with input from this committee, may consider other factors including cost in its development of coverage decisions.''

2. HRSA's 2011 Guidelines and the Departments' Second Interim Final Rules

On August 1, 2011, HRSA released onto its Web site its Guidelines for women's preventive services, adopting the recommendations of the IOM *https://www.hrsa.gov/womensguidelines/*. The Guidelines included coverage for all FDA-approved contraceptives, sterilization procedures, and related patient education and counseling for women with reproductive capacity, as prescribed by a health care provider.

In administering this Mandate, on August 1, 2011, the Departments promulgated interim final rules amending our 2010 interim final rules (76 FR 46621) (2011 interim final rules). The 2011 interim final rules specify that HRSA has the authority to establish exemptions from the contraceptive coverage requirement for certain group health plans established or maintained by certain religious employers and for health insurance coverage provided in connection with such plans.[9] The 2011 interim final rules defined an exempt ''religious employer'' narrowly as one that: (1) Had the inculcation of religious values as its purpose; (2) primarily employed persons who shared its religious tenets; (3) primarily served persons who shared its religious tenets; and (4) was a nonprofit organization, as described in section 6033(a)(1) and (a)(3)(A)(i) or (iii) of the Code. Those relevant sections of the Code include only churches, their integrated auxiliaries, conventions or associations of churches, and the exclusively religious activities of a religious order. The practical effect of the rules' definition of ''religious employer'' was to create potential uncertainty about whether employers, including many of those houses of worship or their integrated auxiliaries, would fail to qualify for the exemption if they engaged in outreach activities toward persons who did not share their religious tenets.[10] As the basis for adopting that limited definition of religious employer, the 2011 interim final rules stated that they relied on the laws of some ''States that exempt certain religious employers from having to comply with State law requirements to cover contraceptive services.'' (76 FR 46623). That same day, HRSA exercised the discretion described in the 2011 interim final rules to provide the exemption.

3. The Departments' Subsequent Rulemaking on the Accommodation and Third Interim Final Rules

Final regulations issued on February 10, 2012, adopted the definition of ''religious employer'' in the 2011 interim final rules without modification (2012 final regulations).[11] (77 FR 8725). The exemption did not require religious employers to file any certification form or comply with any other information collection process.

Contemporaneous with the issuance of the 2012 final regulations, HHS—with the agreement of the Department of Labor (DOL) and the Department of the Treasury—issued guidance establishing a temporary safe harbor from enforcement of the contraceptive coverage requirement by the Departments with respect to group health plans established or maintained by certain nonprofit organizations with religious objections to contraceptive coverage (and the group health insurance coverage provided in connection with such plans).[12] The guidance provided that the temporary safe harbor would remain in effect until the first plan year beginning on or after August 1, 2013. The temporary safe harbor did not apply to for-profit entities. The Departments stated that, during the temporary safe harbor, the Departments would engage in rulemaking to achieve ''two goals—providing contraceptive coverage without cost-sharing to individuals who want it and accommodating non-exempted, nonprofit organizations' religious objections to covering contraceptive services.'' (77 FR 8727).

On March 21, 2012, the Departments published an advance notice of proposed rulemaking (ANPRM) that described possible approaches to achieve those goals with respect to religious nonprofit organizations, and solicited public comments on the same. (77 FR 16501). Following review of the comments on the ANPRM, the Departments published proposed regulations on February 6, 2013 (2013 NPRM) (78 FR 8456).

The 2013 NPRM proposed to expand the definition of ''religious employer'' for purposes of the religious employer

[8] The Departments do not relay these dissenting remarks as an endorsement of the remarks, but to describe the history of the Guidelines, which includes this part of the report that IOM provided to HRSA.

[9] The 2011 amended interim final rules were issued and effective on August 1, 2011, and published in the **Federal Register** on August 3, 2011 (76 FR 46621).

[10] See, for example, Comments of the United States Conference of Catholic Bishops on Interim Final Rules on Preventive Services, File Code CMS–9992–IFC2 (Aug. 31, 2011).

[11] The 2012 final regulations were published on February 15, 2012 (77 FR 8725).

[12] Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans, and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code, issued on February 10, 2012, and reissued on August 15, 2012. Available at: *http://www.lb7.uscourts.gov/documents/12cv3932.pdf.* The guidance, as reissued on August 15, 2012, clarified, among other things, that plans that took some action before February 10, 2012, to try, without success, to exclude or limit contraceptive coverage were not precluded from eligibility for the safe harbor. The temporary enforcement safe harbor was also available to insured student health insurance coverage arranged by nonprofit institutions of higher education with religious objections to contraceptive coverage that met the conditions set forth in the guidance. See final rule entitled ''Student Health Insurance Coverage'' published March 21, 2012 (77 FR 16457).

exemption. Specifically, it proposed to require only that the religious employer be organized and operate as a nonprofit entity and be referred to in section 6033(a)(3)(A)(i) or (iii) of the Code, eliminating the requirements that a religious employer (1) have the inculcation of religious values as its purpose, (2) primarily employ persons who share its religious tenets, and (3) primarily serve persons who share its religious tenets.

The 2013 NPRM also proposed to create a compliance process, which it called an accommodation, for group health plans established, maintained, or arranged by certain eligible religious nonprofit organizations that fell outside the houses of worship and integrated auxiliaries covered by section 6033(a)(3)(A)(i) or (iii) of the Code (and, thus, outside of the religious employer exemption). The 2013 NPRM proposed to define such eligible organizations as nonprofit entities that hold themselves out as religious, oppose providing coverage for certain contraceptive items on account of religious objections, and maintain a certification to this effect in their records. The 2013 NPRM stated, without citing a supporting source, that employees of eligible organizations ''may be less likely than'' employees of exempt houses of worship and integrated auxiliaries to share their employer's faith and opposition to contraception on religious grounds. (78 FR 8461). The 2013 NPRM therefore proposed that, in the case of an insured group health plan established or maintained by an eligible organization, the health insurance issuer providing group health insurance coverage in connection with the plan would provide contraceptive coverage to plan participants and beneficiaries without cost sharing, premium, fee, or other charge to plan participants or beneficiaries enrolled in the eligible organization's plan—and without any cost to the eligible organization.[13] In the case of a self-insured group health plan established or maintained by an eligible organization, the 2013 NPRM presented potential approaches under which the third party administrator of the plan would provide or arrange for contraceptive coverage to plan participants and beneficiaries.

On August 15, 2012, the Departments also extended our temporary safe harbor until the first plan year beginning on or after August 1, 2013.

The Departments published final regulations on July 2, 2013 (July 2013 final regulations) (78 FR 39869). The July 2013 final regulations finalized the expansion of the exemption for houses of worship and their integrated auxiliaries. Although some commenters had suggested that the exemption be further expanded, the Departments declined to adopt that approach. The July 2013 regulations stated that, because employees of objecting houses of worship and integrated auxiliaries are relatively likely to oppose contraception, exempting those organizations ''does not undermine the governmental interests furthered by the contraceptive coverage requirement.'' (78 FR 39874). But, like the 2013 NPRM, the July 2013 regulations assumed that ''[h]ouses of worship and their integrated auxiliaries that object to contraceptive coverage on religious grounds are more likely than other employers to employ people of the same faith who share the same objection'' to contraceptives (*Id.*).

The July 2013 regulations also finalized an accommodation for eligible organizations. Under the accommodation, an eligible organization was required to submit a self-certification to its group health insurance issuer or third party administrator, as applicable. Upon receiving that self-certification, the issuer or third party administrator would provide or arrange for payments for the contraceptive services to the plan participants and beneficiaries enrolled in the eligible organization's plan, without requiring any cost sharing on the part of plan participants and beneficiaries and without cost to the eligible organization. With respect to self-insured plans, the third party administrators (or issuers they contracted with) could receive reimbursements by reducing user fee payments (to Federally facilitated Exchanges) by the amounts paid out for contraceptive services under the accommodation, plus an allowance for certain administrative costs, as long as the Secretary of the Department of Health and Human Services requests and an authorizing exception under OMB Circular No. A–25R is in effect.[14] With respect to fully insured group health plans, the issuer was expected to bear the cost of such payments,[15] and HHS intended to clarify in guidance that the issuer could treat those payments as an adjustment to claims costs for purposes of medical loss ratio and risk corridor program calculations.

With respect to self-insured group health plans, the July 2013 final regulations specified that the self-certification was an instrument under which the plan was operated and that it obligated the third party administrator to provide or arrange for contraceptive coverage by operation of section 3(16) of ERISA. The regulations stated that, by submitting the self-certification form, the eligible organization ''complies'' with the contraceptive coverage requirement and does not have to contract, arrange, pay, or refer for contraceptive coverage. See, for example, Id. at 39874, 39896. Consistent with these statements, the Departments, through the Department of Labor, issued a self-certification form, EBSA Form 700. The form stated, in indented text labeled as a ''Notice to Third Party Administrators of Self-Insured Health Plans,'' that ''[t]he obligations of the third party administrator are set forth in 26 CFR 54.9815–2713A, 29 CFR 2510.3–16, and 29 CFR 2590.715–2713A'' and concluded, in unindented text, that ''[t]his form is an instrument under which the plan is operated.''

The Departments extended the temporary safe harbor again on June 20, 2013, to encompass plan years beginning on or after August 1, 2013, and before January 1, 2014. The guidance extending the safe harbor included a form to be used by an organization during this temporary period to self-certify that its plan qualified for the temporary safe harbor if no prior form had been submitted.

4. Litigation Over the Mandate and the Accommodation Process

During the period when the Departments were publishing and modifying our regulations, organizations and individuals filed dozens of lawsuits challenging the Mandate. Plaintiffs included religious nonprofit organizations, businesses run by religious families, individuals, and others. Religious plaintiffs principally argued that the Mandate violated the Religious Freedom Restoration Act of 1993 (RFRA) by forcing them to provide coverage or payments for sterilization and contraceptive services, including what they viewed as early abortifacient items, contrary to their religious beliefs. Based on this claim, in July 2012 a

[13] The NPRM proposed to treat student health insurance coverage arranged by eligible organizations that are institutions of higher education in a similar manner.

[14] See also 45 CFR 156.50. Under the regulations, if the third party administrator does not participate in a Federally facilitated Exchange as an issuer, it is permitted to contract with an insurer which does so participate, in order to obtain such reimbursement. The total contraceptive user fee adjustment for the 2015 benefit year was $33 million.

[15] ''[P]roviding payments for contraceptive services is cost neutral for issuers.'' (78 FR 39877).

Federal district court issued a preliminary injunction barring the Departments from enforcing the Mandate against a family-owned business. *Newland* v. *Sebelius,* 881 F. Supp. 2d. 1287 (D. Colo. 2012). Multiple other courts proceeded to issue similar injunctions against the Mandate, although a minority of courts ruled in the Departments' favor. *Compare Tyndale House Publishers, Inc.* v. *Sebelius,* 904 F. Supp. 2d 106 (D.D.C. 2012), and *The Seneca Hardwood Lumber Company, Inc.* v. *Sebelius* (sub nom *Geneva Coll.* v. *Sebelius),* 941 F. Supp. 2d 672 (W.D. Pa. 2013), with *O'Brien* v. *U.S. Dep't of Health & Human Servs.,* 894 F. Supp. 2d 1149 (E.D. Mo. 2012).

A circuit split swiftly developed in cases filed by religiously motivated for-profit businesses, to which neither the religious employer exemption nor the eligible organization accommodation (as then promulgated) applied. Several for-profit businesses won rulings against the Mandate before the Unites States Court of Appeals for the Tenth Circuit, sitting en banc, while similar rulings against the Departments were issued by the Seventh and District of Columbia (DC) Circuits. *Hobby Lobby Stores, Inc.* v. *Sebelius,* 723 F.3d 1114 (10th Cir. 2013); *Korte* v. *Sebelius,* 735 F.3d 654 (7th Cir. 2013); *Gilardi* v. *U.S. Dep't of Health & Human Servs.,* 733 F.3d 1208 (D.C. Cir. 2013). The Third and Sixth Circuits disagreed with similar plaintiffs, and in November 2013 the U.S. Supreme Court granted certiorari in *Hobby Lobby* and *Conestoga Wood Specialties Corp.* v. *Secretary of U.S. Department of Health & Human Services,* 724 F.3d 377 (3d Cir. 2013), to resolve the circuit split.

On June 30, 2014, the Supreme Court ruled against the Departments and held that, under RFRA, the Mandate could not be applied to the closely held for-profit corporations before the Court because their owners had religious objections to providing such coverage.[16] *Burwell* v. *Hobby Lobby Stores, Inc.* 134 S. Ct. 2751 (2014). The Court held that the ''contraceptive mandate 'substantially burdens' the exercise of religion'' as applied to employers that object to providing contraceptive coverage on religious grounds, and that the plaintiffs were therefore entitled to an exemption unless the Mandate was the least restrictive means of furthering a compelling governmental interest. *Id.* at 2775. The Court observed that, under the compelling interest test of RFRA, the Departments could not rely on interests ''couched in very broad terms, such as promoting 'public health' and 'gender equality,' but rather, had to demonstrate that a compelling interest was served by refusing an exemption to the ''particular claimant[s]'' seeking an exemption. *Id.* at 2779. Assuming without deciding that a compelling interest existed, the Court held that the Government's goal of guaranteeing coverage for contraceptive methods without cost sharing could be achieved in a less restrictive manner. The Court observed that ''[t]he most straightforward way of doing this would be for the Government to assume the cost of providing the four contraceptives at issue to any women who are unable to obtain them under their health-insurance policies due to their employers' religious objections.'' *Id.* at 2780. The Court also observed that the Departments had ''not provided any estimate of the average cost per employee of providing access to these contraceptives,'' nor ''any statistics regarding the number of employees who might be affected because they work for corporations like Hobby Lobby, Conestoga, and Mardel''. *Id.* at 2780–81. But the Court ultimately concluded that it ''need not rely on the option of a new, government-funded program in order to conclude that the HHS regulations fail the least-restrictive means test'' because ''HHS itself ha[d] demonstrated that it ha[d] at its disposal an approach that is less restrictive than requiring employers to fund contraceptive methods that violate their religious beliefs.'' *Id.* at 2781–82. The Court explained that the ''already established'' accommodation process available to nonprofit organizations was a less-restrictive alternative that ''serve[d] HHS's stated interests equally well,'' although the Court emphasized that its ruling did not decide whether the accommodation process ''complie[d] with RFRA for purposes of all religious claims''. *Id.* at 2788–82.

Meanwhile, another plaintiff obtained temporary relief from the Supreme Court in a case challenging the accommodation under RFRA. Wheaton College, a Christian liberal arts college in Illinois, objected that the accommodation was a compliance process that rendered it complicit in delivering payments for abortifacient contraceptive services to its employees. Wheaton College refused to execute the EBSA Form 700 required under the July 2013 final regulations. It was denied a preliminary injunction in the Federal district and appellate courts, and sought an emergency injunction pending appeal from the Unites States Supreme Court on June 30, 2014. On July 3, 2014, the Supreme Court issued an interim order in favor of the College, stating that, ''[i]f the [plaintiff] informs the Secretary of Health and Human Services in writing that it is a nonprofit organization that holds itself out as religious and has religious objections to providing coverage for contraceptive services, the [Departments of Labor, Health and Human Services, and the Treasury] are enjoined from enforcing [the Mandate] against the [plaintiff] . . . pending final disposition of appellate review.'' *Wheaton College* v. *Burwell.* 134 S. Ct. 2806, 2807 (2014). The order stated that Wheaton College did not need to use EBSA Form 700 or send a copy of the executed form to its health insurance issuers or third party administrators to meet the condition for injunctive relief. *Id.*

In response to this litigation, on August 27, 2014, the Departments simultaneously issued a third set of interim final rules (August 2014 interim final rules) (79 FR 51092), and a notice of proposed rulemaking (August 2014 proposed rules) (79 FR 51118). The August 2014 interim final rules changed the accommodation process so that it could be initiated either by self-certification using EBSA Form 700 or through a notice informing the Secretary of the Department of Health and Human Services that an eligible organization had religious objections to coverage of all or a subset of contraceptive services. (79 FR 51092). In response to *Hobby Lobby,* the August 2014 proposed rules extended the accommodation process to closely held for-profit entities with religious objections to contraceptive coverage, by including them in the definition of eligible organizations. (79 FR 51118). Neither the August 2014 interim final rules nor the August 2014 proposed rules extended the exemption, and neither added a certification requirement for exempt entities.

In October 2014, based on an interpretation of the Supreme Court's interim order, HHS deemed Wheaton College as having submitted a sufficient notice to HHS. HHS conveyed that interpretation to the DOL, so as to trigger the accommodation process.

On July 14, 2015, the Departments finalized both the August 2014 interim final rules and the August 2014 proposed rules in a set of final regulations (the July 2015 final regulations) (80 FR 41318). (The July 2015 final regulations also encompassed issues related to other preventive services coverage.) The preamble to the July 2015 final regulations stated that, through the accommodation, payments

[16] The Supreme Court did not decide whether RFRA would apply to publicly traded for-profit corporations. See 134 S. Ct. at 2774.

for contraceptives and sterilization would be provided in a way that is ''seamless'' with the coverage that eligible employers provide to their plan participants and beneficiaries. *Id.* at 41328. The July 2015 final regulations allowed eligible organizations to submit a notice to HHS as an alternative to submitting the EBSA Form 700, but specified that such notice must include the eligible organization's name and an expression of its religious objection, along with the plan name, plan type, and name and contact information for any of the plan's third party administrators or health insurance issuers. The Departments indicated that such information represents the minimum information necessary for us to administer the accommodation process.

When an eligible organization maintains an insured group health plan or student health plan and provides the alternative notice, the July 2015 final regulations provide that HHS will inform the health insurance issuer of its obligations to cover contraceptive services to which the eligible organization objects. Where an eligible organization maintains a self-insured plan under ERISA and provides the alternative notice, the regulations provide that DOL will work with HHS to send a separate notification to the self-insured plan's third party administrator(s). The regulations further provide that such notification is an instrument under which the plan is operated for the purposes of section 3(16) of ERISA, and the instrument would designate the third party administrator as the entity obligated to provide or arrange for payments for contraceptives to which the eligible organization objects. The July 2015 final regulations continue to apply the amended notice requirement to eligible organizations that sponsor church plans exempt from ERISA pursuant to section 4(b)(2) of ERISA, but acknowledge that, with respect to the operation of the accommodation process, section 3(16) of ERISA does not provide a mechanism to impose an obligation to provide contraceptive coverage as a plan administrator on those eligible organizations' third party administrators. (80 FR 41323).

Meanwhile, a second split among Federal appeals courts had developed involving challenges to the Mandate's accommodation. Many religious nonprofit organizations argued that the accommodation impermissibly burdened their religious beliefs because it utilized the plans the organizations themselves sponsored to provide services to which they objected on religious grounds. They objected to the self-certification requirement on the same basis. Federal district courts split in the cases, granting preliminary injunction motions to religious groups in the majority of cases, but denying them to others. In most appellate cases, religious nonprofit organizations lost their challenges, where the courts often concluded that the accommodation imposed no substantial burden on their religious exercise under RFRA. For example, *Priests for Life* v. *U.S. Dep't of Health and Human Servs.,* 772 F. 3d 229 (D.C. Cir. 2014); *Little Sisters of the Poor Home for the Aged* v. *Burwell,* 794 F.3d 1151 (10th Cir. 2015); *Geneva Coll.* v. *Sec'y U.S. Dep't of Health & Human Servs.,* 778 F.3d 422 (3d Cir. 2015). But the Eighth Circuit disagreed and ruled in favor of religious nonprofit employers. *Dordt College* v. *Burwell,* 801 F.3d 946, 949–50 (8th Cir. 2015) (relying on *Sharpe Holdings, Inc.* v. *U.S. Dep't of Health & Human Servs.,* 801 F.3d 927 (8th Cir. 2015)).

On November 6, 2015, the U.S. Supreme Court granted certiorari in seven similar cases under the title of a filing from the Third Circuit, *Zubik* v. *Burwell.* The Court held oral argument on March 23, 2016, and, after the argument, asked the parties to submit supplemental briefs addressing ''whether and how contraceptive coverage may be obtained by petitioners' employees through petitioners' insurance companies, but in a way that does not require any involvement of petitioners beyond their own decision to provide health insurance without contraceptive coverage to their employees''. In a brief filed with the Supreme Court on April 12, 2016, the Government stated on behalf of the Departments that the accommodation process for eligible organizations with insured plans could operate without any self-certification or written notice being submitted by eligible organizations.

On May 16, 2016, the Supreme Court issued a per curiam opinion in *Zubik,* vacating the judgments of the Courts of Appeals and remanding the cases ''in light of the substantial clarification and refinement in the positions of the parties'' in their supplemental briefs. (136 S. Ct. 1557, 1560 (2016).) The Court stated that it anticipated that, on remand, the Courts of Appeals would ''allow the parties sufficient time to resolve any outstanding issues between them.'' *Id.* The Court also specified that ''the Government may not impose taxes or penalties on petitioners for failure to provide the relevant notice'' while the cases remained pending. *Id.* at 1561.

After remand, as indicated by the Departments in court filings, some meetings were held between attorneys for the Government and for the plaintiffs in those cases. Separately, at various times after the Supreme Court's remand order, HHS and DOL sent letters to the issuers and third party administrators of certain plaintiffs in *Zubik* and other pending cases, directing the issuers and third party administrators to provide contraceptive coverage for participants in those plaintiffs' group health plans under the accommodation. The Departments also issued a Request for Information (RFI) on July 26, 2016, seeking public comment on options for modifying the accommodation process in light of the supplemental briefing in *Zubik* and the Supreme Court's remand order. (81 FR 47741). Public comments were submitted in response to the RFI, during a comment period that closed on September 20, 2016.

On December 20, 2016, HRSA updated the Guidelines via its Web site, *https://www.hrsa.gov/womensguidelines2016/index.html.* HRSA announced that, for plans subject to the Guidelines, the updated Guidelines would apply to the first plan year beginning after December 20, 2017. Among other changes, the updated Guidelines specified that the required contraceptive coverage includes follow-up care (for example, management and evaluation, as well as changes to, and removal or discontinuation of, the contraceptive method). They also specified that coverage should include instruction in fertility awareness-based methods for women desiring an alternative method of family planning. HRSA stated that, with the input of a committee operating under a cooperative agreement, HRSA would review and periodically update the Women's Preventive Services' Guidelines. The updated Guidelines did not alter the religious employer exemption or accommodation process.

On January 9, 2017, the Departments issued a document entitled, ''FAQs About Affordable Care Act Implementation Part 36'' (FAQ).[17] The FAQ stated that, after reviewing comments submitted in response to the 2016 RFI and considering various options, the Departments could not find a way at that time to amend the accommodation so as to satisfy objecting eligible organizations while pursuing the Departments' policy goals. Thus, the

[17] Available at: *https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-36.pdf* and *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ACA-FAQs-Part36_1-9-17-Final.pdf.*

litigation on remand from the Supreme Court remains unresolved.

A separate category of unresolved litigation involved religious employees as plaintiffs. For example, in two cases, the plaintiff-employees work for a nonprofit organization that agrees with the employees (on moral grounds) in opposing coverage of certain contraceptives they believe to be abortifacient, and that is willing to offer them insurance coverage that omits such services. See *March for Life* v. *Burwell,* 128 F. Supp. 3d 116 (D.D.C. 2015); *Real Alternatives,* 150 F. Supp. 3d 419, *affirmed by* 867 F.3d 338 (3d Cir. 2017). In another case, the plaintiff-employees work for a State government entity that the employees claim is willing, under State law, to provide a plan omitting contraception consistent with the employees' religious beliefs. See *Wieland* v. *HHS,* 196 F. Supp. 3d 1010 (E.D. Mo. 2016). Those and similar employee-plaintiffs generally contend that the Mandate violates their rights under RFRA by making it impossible for them to obtain health insurance consistent with their religious beliefs, either from their willing employer or in the individual market, because the Departments offer no exemptions encompassing either circumstance. Such challenges have seen mixed success. Compare, for example, *Wieland,* 196 F. Supp. 3d at 1020 (concluding that the Mandate violates the employee plaintiffs' rights under RFRA and permanently enjoining the Departments) and *March for Life,* 128 F. Supp. 3d at 133–34 (same), with *Real Alternatives,* 2017 WL 3324690 at *18 (affirming dismissal of employee plaintiffs' RFRA claim).

On May 4, 2017, the President issued an ''Executive Order Promoting Free Speech and Religious Liberty.'' Regarding ''Conscience Protections with Respect to Preventive-Care Mandate,'' that order instructs ''[t]he Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services [to] consider issuing amended regulations, consistent with applicable law, to address conscience-based objections to the preventive-care mandate promulgated under section 300gg–13(a)(4) of title 42, United States Code.''

II. RFRA and Government Interests Underlying the Mandate

RFRA provides that the Government ''shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability'' unless the Government ''demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.'' 42 U.S.C. 2000bb–1(a) and (b). In *Hobby Lobby,* the Supreme Court had ''little trouble concluding'' that, in the absence of an accommodation or exemption, ''the HHS contraceptive mandate 'substantially burden[s]' the exercise of religion. 42 U.S.C. 2000bb–1(a).'' 134 S. Ct. at 2775. And although the Supreme Court did not resolve the RFRA claims presented in *Zubik* on their merits, it instructed the parties to consider alternative accommodations for the objecting plaintiffs, after the Government suggested that such alternatives might be possible.

Despite multiple rounds of rulemaking, however, the Departments have not assuaged the sincere religious objections to contraceptive coverage of numerous organizations, nor have we resolved the pending litigation. To the contrary, the Departments have been litigating RFRA challenges to the Mandate and related regulations for more than 5 years, and dozens of those challenges remain pending today. That litigation, and the related modifications to the accommodation, have consumed substantial governmental resources while creating uncertainty for objecting organizations, issuers, third party administrators, employees, and beneficiaries. Consistent with the President's Executive Order and the Government's desire to resolve the pending litigation and prevent future litigation from similar plaintiffs, the Departments have concluded that it is appropriate to reexamine the exemption and accommodation scheme currently in place for the Mandate.

These interim final rules (and the companion interim final rules published elsewhere in this **Federal Register**) are the result of that reexamination. The Departments acknowledge that coverage of contraception is an important and highly sensitive issue, implicating many different views, as reflected in the comments received on multiple rulemakings over the course of implementation of section 2713(a)(4) of the PHS Act. After reconsidering the interests served by the Mandate in this particular context, the objections raised, and the applicable Federal law, the Departments have determined that an expanded exemption, rather than the existing accommodation, is the most appropriate administrative response to the religious objections raised by certain entities and organizations concerning the Mandate. The Departments have accordingly decided to revise the regulations channeling HRSA authority under section 2713(a)(4) of the PHS to provide an exemption from the Mandate to a broader range of entities and individuals that object to contraceptive coverage on religious grounds, while continuing to offer the existing accommodation as an optional alternative. The Departments have also decided to create a process by which a willing employer and issuer may allow an objecting individual employee to obtain health coverage without contraceptive coverage. These interim final rules leave unchanged HRSA's authority to decide whether to include contraceptives in the women's preventive services Guidelines for entities that are not exempted by law, regulation, or the Guidelines. These rules also do not change the many other mechanisms by which the Government advances contraceptive coverage, particularly for low-income women.

In addition to relying on the text of section 2713(a)(4) of the PHS Act and the Departments' discretion to promulgate rules to carry out the provisions of the PHS Act, the Departments also draw on Congress' decision in the Affordable Care Act neither to specify that contraception must be covered nor to require inflexible across-the-board application of section 2713 of the PHS Act. The Departments further consider Congress' extensive history of protecting religious objections when certain matters in health care are specifically regulated—often specifically with respect to contraception, sterilization, abortion, and activities connected to abortion.

Notable among the many statutes (listed in footnote 1 in Section I-Background) that include protections for religious beliefs are, not only the Church Amendments, but also protections for health plans or health care organizations in Medicaid or Medicare Advantage to object ''on moral or religious grounds'' to providing coverage of certain counseling or referral services. (42 U.S.C. 1395w–22(j)(3)(B); 42 U.S.C. 1396u–2(b)(3)). In addition, Congress has protected individuals who object to prescribing or providing contraceptives contrary to their religious beliefs. Consolidated Appropriations Act of 2017, Division C, Title VII, Sec. 726(c) (Financial Services and General Government Appropriations Act), Public Law 115–31 (May 5, 2017). Congress likewise provided that, if the District of Columbia requires ''the provision of contraceptive coverage by health insurance plans,'' ''it is the intent of Congress that any legislation enacted on such issue should include a 'conscience clause' which provides exceptions for

religious beliefs and moral convictions''. *Id.* at Division C, Title VIII, Sec. 808. In light of the fact that Congress did not require HRSA to include contraception in Guidelines issued under section 2713 of the PHS Act, we consider it significant, in support of the implementation of those Guidelines by the expanded exemption in these interim final rules, that Congress' most recent statement on the prospect of Government mandated contraceptive coverage was to express the specific intent that a conscience clause be provided and that it should protect religious beliefs.

The Departments' authority to guide HRSA's discretion in determining the scope of any contraceptive coverage requirement under section 2713(a)(4) of the PHS Act includes the authority to provide exemptions and independently justifies this rulemaking. The Departments have also determined that requiring certain objecting entities or individuals to choose between the Mandate, the accommodation, or penalties for noncompliance violates their rights under RFRA.

A. Elements of RFRA

1. Substantial Burden

The Departments believe that agencies charged with administering a statute or associated regulations or guidance that imposes a substantial burden on the exercise of religion under RFRA have discretion in determining how to avoid the imposition of such burden. The Departments have previously contended that the Mandate does not impose a substantial burden on entities and individuals. With respect to the coverage Mandate itself, apart from the accommodation, and as applied to entities with religious objections, our argument was rejected in *Hobby Lobby,* which held that the Mandate imposes a substantial burden. (134 S. Ct. at 2775–79.) With respect to whether the Mandate imposes a substantial burden on entities that may choose the accommodation, but must choose between the accommodation, the Mandate, or penalties for noncompliance, a majority of Federal appeals courts have held that the accommodation does not impose a substantial burden on such entities (mostly religious nonprofit entities).

The Departments have reevaluated our position on this question, however, in light of all the arguments made in various cases, public comments that have been submitted, and the concerns discussed throughout these rules. We have concluded that requiring certain objecting entities or individuals to choose between the Mandate, the accommodation, or penalties for noncompliance imposes a substantial burden on religious exercise under RFRA. We believe that the Court's analysis in *Hobby Lobby* extends, for the purposes of analyzing a substantial burden, to the burdens that an entity faces when it religiously opposes participating in the accommodation process or the straightforward Mandate, and is subject to penalties or disadvantages that apply in this context if it chooses neither. As the Eighth Circuit stated in *Sharpe Holdings,* ''[i]n light of [nonprofit religious organizations'] sincerely held religious beliefs, we conclude that compelling their participation in the accommodation process by threat of severe monetary penalty is a substantial burden on their exercise of religion. . . . That they themselves do not have to arrange or pay for objectionable contraceptive coverage is not determinative of whether the required or forbidden act is or is not religiously offensive''. (801 F.3d at 942.)

Our reconsideration of these issues has also led us to conclude, consistent with the rulings in favor of religious employee plaintiffs in *Wieland* and *March for Life* cited above, that the Mandate imposes a substantial burden on the religious beliefs of individual employees who oppose contraceptive coverage and would be able to obtain a plan that omits contraception from a willing employer or issuer (as applicable), but cannot obtain one solely because of the Mandate's prohibition on that employer and/or issuer providing them with such a plan.

Consistent with our conclusion earlier this year after the remand of cases in *Zubik* and our reviewing of comments submitted in response to the 2016 RFI, the Departments believe there is not a way to satisfy all religious objections by amending the accommodation. Accordingly, the Departments have decided it is necessary and appropriate to provide the expanded exemptions set forth herein.

2. Compelling Interest

Although the Departments previously took the position that the application of the Mandate to certain objecting employers was necessary to serve a compelling governmental interest, the Departments have now concluded, after reassessing the relevant interests and for the reasons stated below, that it does not. Under such circumstances, the Departments are required by law to alleviate the substantial burden created by the Mandate. Here, informed by the Departments' reassessment of the relevant interests, as well as by our desire to bring to a close the more than 5 years of litigation over RFRA challenges to the Mandate, the Departments have determined that the appropriate administrative response is to create a broader exemption, rather than simply adjusting the accommodation process.

RFRA requires the Government to respect religious beliefs under ''the most demanding test known to constitutional law'': Where the Government imposes a substantial burden on religious exercise, it must demonstrate a compelling governmental interest and show that the law or requirement is the least restrictive means of furthering that interest. *City of Boerne* v. *Flores,* 521 U.S. 507, 534 (1997). For an interest to be compelling, its rank must be of the ''highest order''. *Church of the Lukumi Babalu Aye, Inc.* v. *City of Hialeah,* 508 U.S. 520, 546 (1993); see also *Sherbert* v. *Verner,* 374 U.S. 398, 406–09 (1963); *Wisconsin* v. *Yoder,* 406 U.S. 205, 221–29 (1972). In applying RFRA, the Supreme Court has ''looked beyond broadly formulated interests justifying the general applicability of government mandates and scrutinized the asserted harm of granting specific exemptions to particular religious claimants.'' *Gonzales* v. *O Centro Espirita Beneficente Uniao do Vegetal,* 546 U.S. 418, 431 (2006). To justify a substantial burden on religious exercise under RFRA, the Government must show it has a compelling interest in applying the requirement to the ''particular claimant[s] whose sincere exercise of religion is being substantially burdened.'' *Id.* at 430–31. Moreover, the Government must meet the ''exceptionally demanding'' least-restrictive-means standard. *Hobby Lobby,* 134 S. Ct. at 2780. Under that standard, the Government must establish that ''it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion by the objecting parties.'' *Id.*

Upon further examination of the relevant provisions of the Affordable Care Act and the administrative record on which the Mandate was based, the Departments have concluded that the application of the Mandate to entities with sincerely held religious objections to it does not serve a compelling governmental interest. The Departments have reached that conclusion for multiple reasons, no one of which is dispositive.

First, Congress did not mandate that contraception be covered at all under the Affordable Care Act. Instead, Congress merely provided for coverage

of ''such additional preventive care and screenings'' for women ''provided for in comprehensive guidelines supported by [HRSA].'' Congress, thus, left the identification of any additional required preventive services for women to administrative discretion. The fact that Congress granted the Departments the authority to promulgate all rules appropriate and necessary for the administration of the relevant provisions of the Code, ERISA, and the PHS Act, including by channeling the discretion Congress afforded to HRSA to decide whether to require contraceptive coverage, indicates that the Departments' judgment should carry particular weight in considering the relative importance of the Government's interest in applying the Mandate to the narrow population of entities exempted in these rules.

Second, while Congress specified that many health insurance requirements added by the Affordable Care Act—including provisions adjacent to section 2713 of the PHS Act—were so important that they needed to be applied to all health plans immediately, the preventive services requirement in section 2713 of the PHS Act was not made applicable to ''grandfathered plans.'' That feature of the Affordable Care Act is significant: As cited above, seven years after the Affordable Care Act's enactment, approximately 25.5 million people are estimated to be enrolled in grandfathered plans not subject to section 2713 of the PHS Act. We do not suggest that a requirement that is inapplicable to grandfathered plans or otherwise subject to exceptions could never qualify as a serving a compelling interest under RFRA. For example, ''[e]ven a compelling interest may be outweighed in some circumstances by another even weightier consideration.'' *Hobby Lobby,* 134 S. Ct. at 2780. But Congress' decision not to apply section 2713 of the PHS Act to grandfathered plans, while deeming other requirements closely associated in the same statute as sufficiently important to impose immediately, is relevant to our assessment of the importance of the Government interests served by the Mandate. As the Departments observed in 2010, those immediately applicable requirements were ''particularly significant.'' (75 FR 34540). Congress' decision to leave section 2713 out of that category informs the Departments' assessment of the weight of the Government's interest in applying the Guidelines issued pursuant to section 2713 of the PHS Act to religious objectors.

Third, various entities that brought legal challenges to the Mandate (including some of the largest employers) have been willing to provide coverage of some, though not all, contraceptives. For example, the plaintiffs in *Hobby Lobby* were willing to provide coverage with no cost sharing of 14 of 18 FDA-approved women's contraceptive and sterilization methods. (134 S. Ct. at 2766.) With respect to organizations and entities holding those beliefs, the fact that they are willing to provide coverage for various contraceptive methods significantly detracts from the government interest in requiring that they provide coverage for other contraceptive methods to which they object.

Fourth, the case for a compelling interest is undermined by the existing accommodation process, and how it applies to certain similarly situated entities based on whether or not they participate in certain self-insured group health plans, known as church plans, under applicable law. The Departments previously exempted eligible organizations from the contraceptive coverage requirement, and created an accommodation under which those organizations bore no obligation to provide for such coverage after submitting a self-certification or notice. Where a non-exempt religious organization uses an insured group health plan instead of a self-insured church plan, the health insurance issuer would be obliged to provide contraceptive coverage or payments to the plan's participants under the accommodation. Even in a self-insured church plan context, the preventive services requirement in section 2713(a)(4) of the PHS Act applies to the plan, and through the Code, to the religious organization that sponsors the plan. But under the accommodation, once a self-insured church plan files a self-certification or notice, the accommodation relieves it of any further obligation with respect to contraceptive services coverage. Having done so, the accommodation process would normally transfer the obligation to provide or arrange for contraceptive coverage to a self-insured plan's third party administrator (TPA). But the Departments lack authority to compel church plan TPAs to provide contraceptive coverage or levy fines against those TPAs for failing to provide it. This is because church plans are exempt from ERISA pursuant to section 4(b)(2) of ERISA. Section 2761(a) of the PHS Act provides that States may enforce the provisions of title XXVII of the PHS Act as they pertain to issuers, but not as they pertain to church plans that do not provide coverage through a policy issued by a health insurance issuer. The combined result of PHS Act section 2713's authority to remove contraceptive coverage obligations from self-insured church plans, and HHS's and DOL's lack of authority under the PHS Act or ERISA to require TPAs to become administrators of those plans to provide such coverage, has led to significant incongruity in the requirement to provide contraceptive coverage among nonprofit organizations with religious objections to the coverage.

More specifically, issuers and third party administrators for some, but not all, religious nonprofit organizations are subject to enforcement for failure to provide contraceptive coverage under the accommodation, depending on whether they participate in a self-insured church plan. Notably, many of those nonprofit organizations are not houses of worship or integrated auxiliaries. Under section 3(33)(C)(iv) of ERISA, many organizations in self-insured church plans need not be churches, but can merely ''share[] common religious bonds and convictions with [a] church or convention or association of churches''. The effect is that many similar religious organizations are being treated very differently with respect to their employees receiving contraceptive coverage—depending on whether the organization is part of a church plan—even though the Departments claimed a compelling interest to deny exemptions to all such organizations. In this context, the fact that the Mandate and the Departments' application thereof ''leaves appreciable damage to [their] supposedly vital interest unprohibited'' is strong evidence that the Mandate ''cannot be regarded as protecting an interest 'of the highest order.' '' *Lukumi,* 508 U.S. at 520 (citation and quotation marks omitted).

Fifth, the Departments' previous assertion that the exemption for houses of worship was offered to respect a certain sphere of church autonomy (80 FR 41325) does not adequately explain some of the disparate results of the existing rules. And the desire to respect church autonomy is not grounds to prevent the Departments from expanding the exemption to other religious entities. The Departments previously treated religious organizations that operate in a similar fashion very differently for the purposes of the Mandate. For example, the Departments exempted houses of worship and integrated auxiliaries that may conduct activities, such as the

operating of schools, that are also conducted by non-exempt religious nonprofit organizations. Likewise, among religious nonprofit groups that were not exempt as houses of worship or integrated auxiliaries, many operate their religious activities similarly even if they differ in whether they participate in self-insured church plans. As another example, two religious colleges might have the same level of religiosity and commitment to defined ideals, but one might identify with a specific large denomination and choose to be in a self-insured church plan offered by that denomination, while another might not be so associated or might not have as ready access to a church plan and so might offer its employees a fully insured health plan. Under the accommodation, employees of the college using a fully insured plan (or a self-insured plan that is not a church plan) would receive coverage of contraceptive services without cost sharing, while employees of the college participating in the self-insured church plan would not receive the coverage where that plan required its third party administrator to not offer the coverage.

As the Supreme Court recently confirmed, a self-insured church plan exempt from ERISA through ERISA 3(33) can include a plan that is not actually established or maintained by a church or by a convention or association of churches, but is maintained by ''an organization . . . the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches'' (a so-called ''principal-purpose organization''). See *Advocate Health Care Network* v. *Stapleton,* 137 S. Ct. 1652, 1656–57 (U.S. June 5, 2017); ERISA 3(33)(C). While the Departments take no view on the status of these particular plans, the Departments acknowledge that the church plan exemption not only includes some non-houses-of-worship as organizations whose employees can be covered by the plan, but also, in certain circumstances, may include plans that are not themselves established and maintained by houses of worship. Yet, such entities and plans—if they file a self-certification or notice through the existing accommodation—are relieved of obligations under the contraceptive Mandate and their third party administrators are not subject to a requirement that they provide contraceptive coverage to their plan participants and beneficiaries.

After considering the differential treatment of various religious nonprofit organizations under the previous accommodation, the Departments conclude that it is appropriate to expand the exemption to other religious nonprofit organizations with sincerely held religious beliefs opposed to contraceptive coverage. We also conclude that it is not appropriate to limit the scope of a religious exemption by relying upon a small minority of State laws that contain narrow exemptions that focus on houses of worship and integrated auxiliaries. (76 FR 46623.)

Sixth, the Government's interest in ensuring contraceptive coverage for employees of particular objecting employers is undermined by the characteristics of many of those employers, especially nonprofit employers. The plaintiffs challenging the existing accommodation include, among other organizations, religious colleges and universities, and religious orders that provide health care or other charitable services. Based in part on our experience litigating against such organizations, the Departments now disagree with our previous assertion that ''[h]ouses of worship and their integrated auxiliaries that object to contraceptive coverage on religious grounds are more likely than other employers to employ people of the same faith who share the same objection.'' [18] (78 FR 39874.) Although empirical data was not required to reach our previous conclusion, we note that the conclusion was not supported by any specific data or other source, but instead was intended to be a reasonable assumption. Nevertheless, in the litigation and in numerous public comments submitted throughout the regulatory processes described above, many religious nonprofit organizations have indicated that they possess deep religious commitments even if they are not houses of worship or their integrated auxiliaries. Some of the religious nonprofit groups challenging the accommodation claim that their employees are required to adhere to a statement of faith which includes the entities' views on certain contraceptive items.[19] The Departments recognize, of course, that not all of the plaintiffs challenging the accommodation require all of their employees (or covered students) to share their religious objections to contraceptives. At the same time, it has become apparent from public comments and from court filings in dozens of cases—encompassing hundreds of organizations—that many religious nonprofit organizations express their beliefs publicly and hold themselves out as organizations for whom their religious beliefs are vitally important. Employees of such organizations, even if not required to sign a statement of faith, often have access to, and knowledge of, the views of their employers on contraceptive coverage, whether through the organization's published mission statement or statement of beliefs, through employee benefits disclosures and other communications with employees and prospective employees, or through publicly filed lawsuits objecting to providing such coverage and attendant media coverage. In many cases, the employees of religious organizations will have chosen to work for those organizations with an understanding—explicit or implicit—that they were being employed to advance the organization's goals and to be respectful of the organization's beliefs even if they do not share all of those beliefs. Religious nonprofit organizations that engage in expressive activity generally have a First Amendment right of expressive association and religious free exercise to choose to hire persons (or, in the case of students, to admit them) based on whether they share, or at least will be respectful of, their beliefs.[20]

Given the sincerely held religious beliefs of many religious organizations, imposing the contraceptive-coverage requirement on those that object based on such beliefs might undermine the Government's broader interests in ensuring health coverage by causing the entities to stop providing health coverage. For example, because the Affordable Care Act does not require

[18] In changing its position, an agency ''need not demonstrate to a court's satisfaction that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates.'' *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

[19] See, for example, *Geneva College* v. *Sebelius*, 929 F. Supp. 2d 402, 411 (W.D. Pa. 2013); *Grace Schools* v. *Sebelius*, 988 F. Supp. 2d 935, 943 (N.D. Ind. 2013); Comments of the Council for Christian Colleges & Universities, re: CMS–9968–P (filed Apr. 8, 2013) (''On behalf of [] 172 higher education institutions . . . a requirement for membership in the CCCU is that full-time administrators and faculty at our institutions share the Christian faith of the institution.'').

[20] Notably, ''the First Amendment simply does not require that every member of a group agree on every issue in order for the group's policy to be 'expressive association.'" *Boy Scouts of America* v. *Dale,* 530 U.S. 640, 655 (2000).

institutions of higher education to arrange student coverage, some institutions of higher education that object to the Mandate appear to have chosen to stop arranging student plans rather than comply with the Mandate or be subject to the accommodation with respect to such populations.[21]

Seventh, we now believe the administrative record on which the Mandate rests is insufficient to meet the high threshold to establish a compelling governmental interest in ensuring that women covered by plans of objecting organizations receive cost-free contraceptive coverage through those plans. To begin, in support of the IOM's recommendations, which HRSA adopted, the IOM identified several studies showing a preventive services gap because women require more preventive care than men. (IOM 2011 at 19–21). Those studies did not identify contraceptives or sterilization as composing a specific portion of that gap, and the IOM did not consider or establish in the report whether any cost associated with that gap remains after all other women's preventive services are covered without cost-sharing. *Id.* Even without knowing what the empirical data would show about that gap, the coverage of the other women's preventive services required under both the HRSA Guidelines and throughout section 2713(a) of the PHS Act—including annual well-woman visits and a variety of tests, screenings, and counseling services—serves at a minimum to diminish the cost gap identified by IOM for women whose employers decline to cover some or all contraceptives on religious grounds.[22]

Moreover, there are multiple Federal, State, and local programs that provide free or subsidized contraceptives for low-income women. Such Federal programs include, among others, Medicaid (with a 90 percent Federal match for family planning services), Title X, community health center grants, and Temporary Assistance for Needy Families. According to the Guttmacher Institute, government-subsidized family planning services are provided at 8,409 health centers overall.[23] The Title X program, for example, administered by the HHS Office of Population Affairs (OPA), provides a wide variety of voluntary family planning information and services for clients based on their ability to pay, through a network that includes nearly 4,000 family planning centers. *http://www.hhs.gov/opa/title-x-family-planning/* Individuals with family incomes at or below the HHS poverty guideline (for 2017, $24,600 for a family of four in the 48 contiguous States and the District of Columbia) receive services at no charge unless a third party (governmental or private) is authorized or obligated to pay for these services. Individuals with incomes in excess of 100 percent up to 250 percent of the poverty guideline are charged for services using a sliding fee scale based on family size and income. Unemancipated minors seeking confidential services are assessed fees based on their own income level rather than their family's income. The availability of such programs to serve the most at-risk women (as defined in the IOM report) diminishes the Government's interest in applying the Mandate to objecting employers. Many forms of contraception are available for around $50 per month, including long-acting methods such as the birth control shot and intrauterine devices (IUDs).[24] Other, more permanent forms of contraception like implantables bear a higher one-time cost, but when calculated over the duration of use, cost a similar amount.[25] Various State programs supplement the Federal programs referenced above, and 28 States have their own mandates of contraceptive coverage as a matter of State law. This existing inter-governmental structure for obtaining contraceptives significantly diminishes the Government's interest in applying the Mandate to employers over their sincerely held religious objections.

The record also does not reflect that the Mandate is tailored to the women most likely to experience unintended pregnancy, identified by the 2011 IOM report as ''women who are aged 18 to 24 years and unmarried, who have a low income, who are not high school graduates, and who are members of a racial or ethnic minority''. (IOM 2011 at 102). For example, with respect to religiously objecting organizations, the Mandate applies in employer-based group health plans and student insurance at private colleges and universities. It is not clear that applying the Mandate among those objecting entities is a narrowly tailored way to benefit the most at-risk population. The entities appear to encompass some such women, but also appear to omit many of them and to include a significantly larger cross-section of women as employees or plan participants. At the same time, the Mandate as applied to objecting employers appears to encompass a relatively small percentage of the number of women impacted by the Mandate overall, since most employers do not appear to have conscientious objections to the Mandate.[26] The Guttmacher Institute, on which the IOM relied, further reported that 89 percent of women who are at risk of unintended pregnancy and are living at 0 through 149 percent of the poverty line are already using contraceptives, as are 92 percent of those with incomes of 300 percent or more of the Federal poverty level.[27]

The rates of—and reasons for—unintended pregnancy are notoriously difficult to measure.[28] In particular, association and causality can be hard to disentangle, and the studies referred to by the 2011 IOM Report speak more to association than causality. For example, IOM 2011 references Boonstra, et al.

[21] See, for example, Manya Brachear Pashman, ''Wheaton College ends coverage amid fight against birth control mandate,'' Chicago Tribune (July 29, 2015); Laura Bassett, ''Franciscan University Drops Entire Student Health Insurance Plan Over Birth Control Mandate,'' HuffPost (May 15, 2012).

[22] The Departments are not aware of any objectors to the contraceptive Mandate that are unwilling to cover any of the other preventive services without cost sharing as required by PHS Act section 2713.

[23] ''Facts on Publicly Funded Contraceptive Services in the United States,'' March 2016.

[24] See, for example, Caroline Cunningham, ''How Much Will Your Birth Control Cost Once the Affordable Care Act Is Repealed?'' *Washingtonian* (Jan. 17, 2017), available at *https://www.washingtonian.com/2017/01/17/how-much-will-your-birth-control-cost-once-the-affordable-care-act-is-repealed/*; also, see *https://www.plannedparenthood.org/learn/birth-control.*

[25] *Id.*

[26] Prior to the implementation of the Affordable Care Act approximately 6 percent of employer survey respondents did not offer contraceptive coverage, with 31 percent of respondents not knowing whether they offered such coverage Kaiser Family Foundation & Health Research & Educational Trust, ''Employer Health Benefits, 2010 Annual Survey'' at 196, available at *https://kaiserfamilyfoundation.files.wordpress.com/2013/04/8085.pdf.* It is not clear whether the minority of employers who did not cover contraception refrained from doing so for conscientious reasons or for other reasons. Estimates of the number of women who might be impacted by the exemptions offered in these rules, as compared to the total number of women who will likely continue to receive contraceptive coverage, is discussed in more detail below.

[27] ''Contraceptive Use in the United States,'' September 2016.

[28] The IOM 2011 Report reflected this when it cited the IOM's own 1995 report on unintended pregnancy, ''The Best Intentions'' (IOM 1995). IOM 1995 identifies various methodological difficulties in demonstrating the interest in reducing unintended pregnancies by means of a coverage mandate in employer plans. These include: The ambiguity of intent as an evidence-based measure (does it refer to mistimed pregnancy or unwanted pregnancy, and do studies make that distinction?); ''the problem of determining parental attitudes at conception'' and inaccurate methods often used for that assessment, such as ''to use the request for an abortion as a marker''; and the overarching problem of ''association versus causality,'' that is, whether intent causes certain negative outcomes or is merely correlated with them. IOM 1995 at 64–66. See also IOM 1995 at 222 (''the largest public sector funding efforts, Title X and Medicaid, have not been well evaluated in terms of their net effectiveness, including their precise impact on unintended pregnancy'').

(2006), as finding that, ''as the rate of contraceptive use by unmarried women increased in the United States between 1982 and 2002, rates of unintended pregnancy and abortion for unmarried women also declined,'' [29] and Santelli and Melnikas as finding that ''increased rates of contraceptive use by adolescents from the early 1990s to the early 2000s was associated with a decline in teen pregnancies and that periodic increases in the teen pregnancy rate are associated with lower rates of contraceptive use''. IOM 2011 at 105.[30] In this respect, the report does not show that access to contraception causes decreased incidents of unintended pregnancy, because both of the assertions rely on association rather than causation, and they associate reduction in unintended pregnancy with increased use of contraception, not merely with increased access to such contraceptives.

Similarly, in a study involving over 8,000 women between 2012 and 2015, conducted to determine whether contraceptive coverage under the Mandate changed contraceptive use patterns, the Guttmacher Institute concluded that ''[w]e observed no changes in contraceptive use patterns among sexually active women.'' [31] With respect to teens, the Santelli and Melnikas study cited by IOM 2011 observes that, between 1960 and 1990, as contraceptive use increased, teen sexual activity outside of marriage likewise increased (although the study does not assert a causal relationship).[32] Another study, which proposed an economic model for the decision to engage in sexual activity, stated that ''[p]rograms that increase access to contraception are found to decrease teen pregnancies in the short run but increase teen pregnancies in the long run.'' [33] Regarding emergency contraception in particular, ''[i]ncreased access to emergency contraceptive pills enhances use but has not been shown to reduce unintended pregnancy rates.''[34] In the longer term—from 1972 through 2002—while the percentage of sexually experienced women who had ever used some form of contraception rose to 98 percent,[35] unintended pregnancy rates in the Unites States rose from 35.4 percent[36] to 49 percent.''[37] The Departments note these and other studies[38] to observe the complexity and uncertainty in the relationship between contraceptive access, contraceptive use, and unintended pregnancy.

Contraception's association with positive health effects might also be partially offset by an association with negative health effects. In 2013 the National Institutes of Health indicated, in funding opportunity announcement for the development of new clinically useful female contraceptive products, that ''hormonal contraceptives have the disadvantage of having many undesirable side effects[,] are associated with adverse events, and obese women are at higher risk for serious complications such as deep venous thrombosis.'' [39] In addition, IOM 2011 stated that ''[l]ong-term use of oral contraceptives has been shown to reduce a woman's risk of endometrial cancer, as well as protect against pelvic inflammatory disease and some benign breast diseases (PRB, 1998). The Agency for Healthcare Research and Quality (AHRQ) is currently undertaking a systematic evidence review to evaluate the effectiveness of oral contraceptives as primary prevention for ovarian cancer (AHRQ, 2011).'' (IOM 2011 at 107). However, after IOM 2011 made this statement, AHRQ (a component of HHS) completed its systematic evidence review.[40] Based on its review, AHRQ stated that: ''[o]varian cancer incidence was significantly reduced in OC [oral contraceptive] users''; ''[b]reast cancer incidence was slightly but significantly increased in OC users''; ''[t]he risk of cervical cancer was significantly increased in women with persistent human papillomavirus infection who used OCs, but heterogeneity prevented a formal meta-analysis''; ''[i]ncidences of both colorectal cancer [] and endometrial cancer [] were significantly reduced by OC use''; ''[t]he risk of vascular events was increased in current OC users compared with nonusers, although the increase in myocardial infarction was not statistically significant''; ''[t]he overall strength of evidence for ovarian cancer prevention was moderate to low''; and ''[t]he simulation model predicted that the combined increase in risk of breast and cervical cancers and vascular events was likely to be equivalent to or greater than the decreased risk in ovarian cancer.''[41] Based on these findings, AHRQ concluded that ''[t]here is insufficient evidence to recommend for or against the use of OCs solely for the primary prevention of ovarian cancer . . . . the harm/benefit ratio for ovarian cancer prevention alone is uncertain, particularly when the

[29] H. Boonstra, et al., ''Abortion in Women's Lives'' at 18, *Guttmacher Inst.* (2006).

[30] Citing John S. Santelli & Andrea J. Melnikas, ''Teen Fertility in Transition: Recent and Historic Trends in the United States,'' 31 *Ann. Rev. Pub. Health* 371 (2010).

[31] Bearak, J.M. and Jones, R.K., ''Did Contraceptive Use Patterns Change after the Affordable Care Act? A Descriptive Analysis,'' 27 *Women's Health Issues* 316 (Guttmacher Inst. May–June 2017), available at *http://www.whijournal.com/article/S1049-3867(17)30029-4/fulltext.*

[32] 31 *Ann. Rev. Pub. Health* at 375–76.

[33] Peter Arcidiacono, et al., ''Habit Persistence and Teen Sex: Could Increased Access to Contraception Have Unintended Consequences for Teen Pregnancies?'' (2005), *available at http://public.econ.duke.edu/~psarcidi/teensex.pdf.*

[34] G. Raymond et al., ''Population effect of increased access to emergency contraceptive pills: a systematic review,'' 109 Obstet. Gynecol. 181 (2007).

[35] William D. Mosher & Jo Jones, U.S. Dep't of HHS, CDC, National Center for Health Statistics, ''Use of Contraception in the United States: 1982–2008'' at 5 fig. 1, 23 *Vital and Health Statistics* 29 (Aug. 2010), available at *https://www.cdc.gov/nchs/data/series/sr_23/sr23_029.pdf.*

[36] Helen M. Alvaré, ''No Compelling Interest: The 'Birth Control' Mandate and Religious Freedom,'' 58 *Vill. L. Rev.* 379, 404–05 & n.128 (2013), available at *http://digitalcommons.law.villanova.edu/vlr/vol58/iss3/2* (quoting Christopher Tietze, ''Unintended Pregnancies in the United States, 1970–1972,'' 11 *Fam. Plan. Persp.* 186, 186 n.* (1979) (''in 1972, 35.4 percent percent of all U.S. pregnancies were 'unwanted' or 'wanted later'''')).

[37] *Id.* (citing Lawrence B. Finer & Stanley K. Henshaw, ''Disparities in Rates of Unintended Pregnancy in the United States, 1994 and 2001'' 38 *Persp. on Sexual Reprod. Health* 90 (2006) (''In 2001, 49 percent of pregnancies in the United States were unintended'')).

[38] See, for example, J.L Dueñas, et al., ''Trends in the Use of Contraceptive Methods and Voluntary Interruption of Pregnancy in the Spanish Population during 1997–2007,'' 83 *Contraception* 82 (2011) (as use of contraceptives increased from 49 percent to 80 percent, the elective abortion rate more than doubled); D. Paton, ''The economics of family planning and underage conceptions,'' 21 *J. Health Econ.* 207 (2002) (data from the UK confirms an economic model which suggests improved family planning access for females under 16 increases underage sexual activity and has an ambiguous impact on underage conception rates); T. Raine et al., ''Emergency contraception: advance provision in a young, high-risk clinic population,'' 96 *Obstet. Gynecol.* 1 (2000) (providing advance provision of emergency contraception at family planning clinics to women aged 16–24 was associated with the usage of less effective and less consistently used contraception by other methods); M. Belzer et al., ''Advance supply of emergency contraception: a randomized trial in adolescent mothers,'' 18 *J. Pediatr. Adolesc. Gynecol.* 347 (2005) (advance provision of emergency contraception to mothers aged 13–20 was associated with increased unprotected sex at the 12-month follow up).

[39] NIH, ''Female Contraceptive Development Program (U01)'' (Nov. 5, 2013), available at *https://grants.nih.gov/grants/guide/rfa-files/RFA-HD-14-024.html.* Thirty six percent of women in the United States are obese. *https://www.niddk.nih.gov/health-information/health-statistics/overweight-obesity.* Also see ''Does birth control raise my risk for health problems?'' and ''What are the health risks for smokers who use birth control?'' HHS Office on Women's Health, available at *https://www.womenshealth.gov/a-z-topics/birth-control-methods*; Skovlund, CW, ''Association of Hormonal Contraception with Depression,'' 73 *JAMA Psychiatry* 1154 (Nov. 1, 2016), available at *https://www.ncbi.nlm.nih.gov/pubmed/27680324.*

[40] Havrilesky, L.J, et al., ''Oral Contraceptive User for the Primary Prevention of Ovarian Cancer,'' Agency for Healthcare Research and Quality, Report No.: 13–E002–EF (June 2013), available at *https://archive.ahrq.gov/research/findings/evidence-based-reports/ocusetp.html.*

[41] *Id.*

potential quality-of-life impact of breast cancer and vascular events are considered.''[42]

In addition, in relation to several studies cited above, imposing a coverage Mandate on objecting entities whose plans cover many enrollee families who may share objections to contraception could, among some populations, affect risky sexual behavior in a negative way. For example, it may not be a narrowly tailored way to advance the Government interests identified here to mandate contraceptive access to teenagers and young adults who are not already sexually active and at significant risk of unintended pregnancy.[43]

Finally, evidence from studies that post-date the Mandate is not inconsistent with the observations the Departments make here. In 2016, HRSA awarded a 5-year cooperative agreement to the American College of Obstetricians and Gynecologists to develop recommendations for updated Women's Preventive Services Guidelines. The awardee formed an expert panel called the Women's Preventive Services Initiative that issued a report (the WPSI report).[44] After observing that ''[p]rivate companies are increasingly challenging the contraception provisions in the Affordable Care Act,'' the WPSI report cited studies through 2013 stating that application of HRSA Guidelines had applied preventive services coverage to 55.6 million women and had led to a 70 percent decrease in out-of-pocket expenses for contraceptive services among commercially insured women. *Id.* at 57–58. The WPSI report relied on a 2015 report of the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE), ''The Affordable Care Act Is Improving Access to Preventive Services for Millions of Americans,'' which estimated that persons who have private insurance coverage of preventive services without cost sharing includes 55.6 million women.[45]

As discussed above and based on the Departments' knowledge of litigation challenging the Mandate, during the time ASPE estimated the scope of preventive services coverage (2011–2013), houses of worship and integrated auxiliaries were exempt from the Mandate, other objecting religious nonprofit organizations were protected by the temporary safe harbor, and hundreds of accommodated self-insured church plan entities were not subject to enforcement of the Mandate through their third party administrators. In addition, dozens of for-profit entities that had filed lawsuits challenging the Mandate were protected by court orders pending the Supreme Court's resolution of *Hobby Lobby* in June 2014. It would therefore appear that the benefits recorded by the report occurred even though most objecting entities were not in compliance.[46] Additional data indicates that, in 28 States where contraceptive coverage mandates have been imposed statewide, those mandates have not necessarily lowered rates of unintended pregnancy (or abortion) overall.[47]

The Departments need not take a position on these empirical questions. Our review is sufficient to lead us to conclude that significantly more uncertainty and ambiguity exists in the record than the Departments previously acknowledged when we declined to extend the exemption to certain objecting organizations and individuals as set forth herein, and that no compelling interest exists to counsel against us extending the exemption.

During public comment periods, some commenters noted that some drugs included in the preventive services contraceptive Mandate can also be useful for treating certain existing health conditions. The IOM similarly stated that ''the non-contraceptive benefits of hormonal contraception include treatment of menstrual disorders, acne or hirsutism, and pelvic pain.'' IOM 2011 at 107. Consequently, some commenters suggested that religious objections to the Mandate should not be permitted in cases where such methods are used to treat such conditions, even if those methods can also be used for contraceptive purposes. Section 2713(a)(4) of the PHS Act does not, however, apply to non-preventive care provided solely for treatment of an existing condition. It applies only to ''such additional preventive care and screenings . . . as provided for'' by HRSA (Section 2713(a)(4) of the PHS Act). HRSA's Guidelines implementing this section state repeatedly that they apply to ''preventive'' services or care, and with respect to the coverage of contraception specifically, they declare that the methods covered are ''contraceptive'' methods as a ''Type of Preventive Service,'' and that they are to be covered only ''[a]s prescribed'' by a physician or other health care provider. *https://www.hrsa.gov/womensguidelines/* The contraceptive coverage requirement in the Guidelines also only applies for ''women with reproductive capacity.'' *https://www.hrsa.gov/womensguidelines/*; (80 FR 40318). Therefore, the Guidelines' inclusion of contraceptive services requires coverage of contraceptive methods as a type of preventive service only when a drug that the FDA has approved for contraceptive use is prescribed in whole or in part for such use. The Guidelines and section 2713(a)(4) of the PHS Act do not require coverage of such drugs where they are prescribed exclusively for a non-contraceptive and non-preventive use to treat an existing condition.[48] As discussed above, the last

[42] *Id.* Also, see Kelli Miller, ''Birth Control & Cancer: Which Methods Raise, Lower Risk,'' *The Am. Cancer Society,* (Jan. 21, 2016), available at *http://www.cancer.org/cancer/news/features/birth-control-cancer-which-methods-raise-lower-risk.*

[43] For further discussion, see Alvaré, 58 *Vill. L. Rev.* at 400–02 (discussing the Santelli & Melnikas study and the Arcidiacono study cited above, and other research that considers the extent to which reduction in teen pregnancy is attributable to sexual risk avoidance rather than to contraception access).

[44] ''WPSI 2016 Recommendations: Evidence Summaries and Appendices,'' at 54–64, *available at https://www.womenspreventivehealth.org/wp-content/uploads/2016/12/Evidence-Summaries-and-Appendices.pdf.*

[45] Available at *https://aspe.hhs.gov/pdf-report/affordable-care-act-improving-access-preventive-services-millions-americans*; also, see Abridged Report, available at *https://www.womenspreventive health.org/wp-content/uploads/2017/01/WPSI_2016AbridgedReport.pdf.*

[46] In addition, as in IOM 2011, the WPSI report bases its evidentiary conclusions relating to contraceptive coverage, use, unintended pregnancy, and health benefits, on conclusions that the phenomena are ''associated'' with the intended outcomes, without showing there is a causal relationship. For example, the WPSI report states that ''[c]ontraceptive counseling in primary care may increase the uptake of hormonal methods and [long-acting reversible contraceptives], although data on structured counseling in specialized reproductive health settings demonstrated no such effect.'' *Id.* at 63. The WPSI report also acknowledges that a large-scale study evaluating the effects of providing no-cost contraception had ''no randomization or control group.'' *Id.* at 63.

The WPSI report also identifies the at-risk population as young, low-income, and/or minority women: ''[u]nintended pregnancies disproportionately occur in women age 18 to 24 years, especially among those with low incomes or from racial/ethnic minorities.'' *Id.* at 58. The WPSI report acknowledges that many in this population are already served by Title X programs, which provide family planning services to ''approximately 1 million teens each year.'' *Id.* at 58. The WPSI report observes that between 2008 and 2011—before the contraceptive coverage requirement was implemented—unintended pregnancy decreased to the lowest rate in 30 years. *Id.* at 58. The WPSI report does not address how to balance contraceptive coverage interests with religious objections, nor does it specify the extent to which applying the Mandate among commercially insured at objecting entities serves to deliver contraceptive coverage to women most at risk of unintended pregnancy.

[47] See Michael J. New, ''Analyzing the Impact of State Level Contraception Mandates on Public Health Outcomes,'' 13 *Ave Maria L. Rev.* 345 (2015), available at *http://avemarialaw-law-review.avemarialaw.edu/Content/articles/vXIII.i2.new.final.0809.pdf.*

[48] The Departments previously cited the IOM's listing of existing conditions that contraceptive drugs can be used to treat (menstrual disorders, acne, and pelvic pain), and said of those uses that ''there are demonstrated preventive health benefits

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Administration decided to exempt houses of worship and their integrated auxiliaries from the Mandate, and to relieve hundreds of religious nonprofit organizations of their obligations under the Mandate and not further require contraceptive coverage to their employees. In several of the lawsuits challenging the Mandate, some religious plaintiffs stated that they do not object and are willing to cover drugs prescribed for the treatment of an existing condition and not for contraceptive purposes—even if those drugs are also approved by the FDA for contraceptive uses. Therefore, the Departments conclude that the fact that some drugs that are approved for preventive contraceptive purposes can also be used for exclusively non-preventive purposes to treat existing conditions is not a sufficient reason to refrain from expanding the exemption to the Mandate.

An additional consideration supporting the Departments' present view is that alternative approaches can further the interests the Departments previously identified behind the Mandate. As noted above, the Government already engages in dozens of programs that subsidize contraception for the low-income women identified by the IOM as the most at risk for unintended pregnancy. The Departments have also acknowledged in legal briefing that contraception access can be provided through means other than coverage offered by religious objectors, for example, through ''a family member's employer,'' ''an Exchange,'' or ''another government program.'' [49]

Many employer plan sponsors, institutions of education arranging student health coverage, and individuals enrolled in plans where their employers or issuers (as applicable) are willing to offer them a religiously acceptable plan, hold sincerely held religious beliefs against (respectively) providing, arranging, or participating in plans that comply with the Mandate either by providing contraceptive coverage or by using the accommodation. Because we have concluded that requiring such compliance through the Mandate or accommodation has constituted a substantial burden on the religious exercise of many such entities or individuals, and because we conclude requiring such compliance did not serve a compelling interest and was not the least restrictive means of serving a compelling interest, we now believe that requiring such compliance led to the violation of RFRA in many instances. We recognize that this is a change of position on this issue, and we make that change based on all the matters discussed in this preamble.

B. Discretion To Provide Religious Exemptions

Even if RFRA does not compel the religious exemptions provided in these interim final rules, the Departments believe they are the most appropriate administrative response to the religious objections that have been raised. RFRA identifies certain circumstance under which government must accommodate religious exercise-when a government action imposes a substantial burden on the religious exercise of an adherent and imposition of that burden is not the least restrictive means of achieving a compelling government interest. RFRA does not, however, prescribe the accommodation that the government must adopt. Rather, agencies have discretion to fashion an appropriate and administrable response to respect religious liberty interests implicated by their own regulations. We know from *Hobby Lobby* that, in the absence of any accommodation, the contraceptive-coverage requirement imposes a substantial burden on certain objecting employers. We know from other lawsuits and public comments that many religious entities have objections to complying with the accommodation based on their sincerely held religious beliefs. Previously, the Departments attempted to develop an accommodation that would either alleviate the substantial burden imposed on religious exercise or satisfy RFRA's requirements for imposing that burden.

Now, however, the Departments have reassessed the relevant interests and determined that, even if exemptions are not required by RFRA, they would exercise their discretion to address the substantial burden identified in *Hobby Lobby* by expanding the exemptions from the Mandate instead of revising accommodations previously offered. In the Departments' view, a broader exemption is a more direct, effective means of satisfying all bona fide religious objectors. This view is informed by the fact that the Departments' previous attempt to develop an appropriate accommodation did not satisfy all objectors. That previous accommodation consumed Departmental resources not only through the regulatory process, but in persistent litigation and negotiations. Offering exemptions as described in these interim final rules is a more workable way to respond to the substantial burden identified in *Hobby Lobby* and bring years of litigation concerning the Mandate to a close.

C. General Scope of Expanded Religious Exemptions

1. Exemption and Accommodation for Religious Employers, Plan Sponsors, and Institutions of Higher Education

For all of these reasons, and as further explained below, the Departments now believe it is appropriate to modify the scope of the discretion afforded to HRSA in the July 2015 final regulations to direct HRSA to provide the expanded exemptions and change the accommodation to an optional process if HRSA continues to otherwise provide for contraceptive coverage in the Guidelines. As set forth below, the expanded exemption encompasses non-governmental plan sponsors that object based on sincerely held religious beliefs, and institutions of higher education in their arrangement of student health plans. The accommodation is also maintained as an optional process for exempt employers, and will provide contraceptive availability for persons covered by the plans of entities that use it (a legitimate program purpose).

The Departments believe this approach is sufficiently respectful of religious objections while still allowing the Government to advance other interests. Even with the expanded exemption, HRSA maintains the discretion to require contraceptive coverage for nearly all entities to which the Mandate previously applied (since most plan sponsors do not appear to possess the requisite religious objections), and to reconsider those interests in the future where no covered objection exists. Other Government subsidies of contraception are likewise not affected by this rule.

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from contraceptives relating to conditions other than pregnancy.'' 77 FR 8727 & n.7. This was not, however, an assertion that PHS Act section 2713(a)(4) or the Guidelines require coverage of ''contraceptive'' methods when prescribed for an exclusively *non*-contraceptive, *non*-preventive use. Instead it was an observation that such drugs—generally referred to as ''contraceptives''—also have some alternate beneficial uses to treat existing conditions. For the purposes of these interim final rules, the Departments clarify here that our previous reference to the benefits of using contraceptive drugs exclusively for some non-contraceptive and non-preventive uses to treat existing conditions did not mean that the Guidelines require coverage of such uses, and consequently is not a reason to refrain from offering the expanded exemptions provided here. Where a drug approved by the FDA for contraceptive use is prescribed for both a contraceptive use and a non-contraceptive use, the Guidelines (to the extent they apply) would require its coverage. Where a drug approved by the FDA for contraceptive use is prescribed exclusively for a non-contraceptive and non-preventive use to treat an existing condition, it would be outside the scope of the Guidelines.

[49] Brief for the Respondents at 65, *Zubik* v. *Burwell,* 136 S. Ct. 1557 (2016) (No. 14–1418).

2. Exemption for Objecting Individuals Covered by Willing Employers and Issuers

As noted above, some individuals have brought suit objecting to being covered under an insurance policy that includes coverage for contraceptives. See, for example, *Wieland* v. *HHS,* 196 F. Supp. 3d 1010 (E.D. Mo. 2016); *Soda* v. *McGettigan,* No. 15–cv–00898 (D. Md.). Just as the Departments have determined that the Government does not have a compelling interest in applying the Mandate to employers that object to contraceptive coverage on religious grounds, we have also concluded that the Government does not have a compelling interest in requiring individuals to be covered by policies that include contraceptive coverage when the individuals have sincerely held religious objections to that coverage. The Government does not have an interest in ensuring the provision of contraceptive coverage to individuals who do not wish to have such coverage. Especially relevant to this conclusion is the fact that the Departments have described their interests of health and gender equality as being advanced among women who ''want'' the coverage so as to prevent ''unintended'' pregnancy. (77 FR 8727).[50] No asserted interest is served by denying an exemption to individuals who object to it. No unintended pregnancies will be avoided or costs reduced by imposing the coverage on those individuals.

Although the Departments previously took the position that allowing individual religious exemptions would undermine the workability of the insurance system, the Departments now agree with those district courts that have concluded that an exemption that allows—but does not require—issuers and employers to omit contraceptives from coverage provided to objecting individuals does not undermine any compelling interest. See *Wieland,* 196 F. Supp. 3d at 1019–20; *March for Life,* 128 F. Supp. 3d at 132. The individual exemption will only apply where the employer and issuer (or, in the individual market, the issuer) are willing to offer a policy accommodating the objecting individual. As a result, the Departments consider it likely that where an individual exemption is invoked, it will impose no burdens on the insurance market because such burdens may be factored into the willingness of an employer or issuer to offer such coverage. At the level of plan offerings, the extent to which plans cover contraception under the prior rules is already far from uniform. Congress did not require compliance with section 2713 of the PHS Act by all entities—in particular by grandfathered plans. The Departments' previous exemption for houses of worship and integrated auxiliaries, and our lack of authority to enforce the accommodation with respect to self-insured church plans, show that the importance of a uniform health insurance system is not significantly harmed by allowing plans to omit contraception in many contexts.[51] Furthermore, granting exemptions to individuals who do not wish to receive contraceptive coverage where the plan and, as applicable, issuer and plan sponsor are willing, does not undermine the Government's interest in ensuring the provision of such coverage to other individuals who wish to receive it. Nor do such exemptions undermine the operation of the many other programs subsidizing contraception. Rather, such exemptions serve the Government's interest in accommodating religious exercise. Accordingly, as further explained below, the Departments have provided an exemption to address the concerns of objecting individuals.

D. Effects on Third Parties of Exemptions

The Departments note that the exemptions created here, like the exemptions created by the last Administration, do not burden third parties to a degree that counsels against providing the exemptions. Congress did not create a right to receive contraceptive coverage, and Congress explicitly chose not to impose the section 2713 of the PHS Act requirements on grandfathered plans that cover millions of people. Individuals who are unable to obtain contraceptive coverage through their employer-sponsored health plans because of the exemptions created in these interim final rules, or because of other exemptions to the Mandate, have other avenues for obtaining contraception, including the various governmental programs discussed above. As the Government is under no constitutional obligation to fund contraception, *cf. Harris* v. *McRae,* 448 United States 297 (1980), even more so may the Government refrain from requiring private citizens to cover contraception for other citizens in violation of their religious beliefs. *Cf. Rust* v. *Sullivan,* 500 U.S. 173, 192–93 (1991) (''A refusal to fund protected activity, without more, cannot be equated with the imposition of a 'penalty' on that activity.'').[52]

That conclusion is consistent with the Supreme Court's observation that RFRA may require exemptions even from laws requiring claimants ''to confer benefits on third parties.'' *Hobby Lobby,* 134 S. Ct. at 2781 n.37. The burdens imposed on such third parties may be relevant to the RFRA analysis, but they cannot be dispositive. ''Otherwise, for example, the Government could decide that all supermarkets must sell alcohol for the convenience of customers (and thereby exclude Muslims with religious objections from owning supermarkets), or it could decide that all restaurants must remain open on Saturdays to give employees an opportunity to earn tips (and thereby exclude Jews with religious objections from owning restaurants).'' *Id.* Where, as here, contraceptives are readily accessible and, for many low income persons, are available at reduced cost or for free through various governmental programs, and contraceptive coverage may be available through State sources or family plans obtained through non-objecting employers, the Departments have determined that the expanded exemptions rather than accommodations are the appropriate response to the substantial burden that the Mandate has placed upon the religious exercise of many religious employers.

III. Provisions of the Interim Final Rules With Comment Period

The Departments are issuing these interim final rules in light of the full history of relevant rulemaking (including prior interim final rules), public comments, and litigation throughout the Federal court system. The interim final rules seek to resolve this matter and the long-running litigation with respect to religious

[50] In this respect, the Government's interest in contraceptive coverage is different than its interest in persons receiving some other kinds of health coverage or coverage in general, which can lead to important benefits that are not necessarily conditional on the recipient's desire to use the coverage and the specific benefits that may result from their choice to use it.

[51] Also, see *Real Alternatives,* 2017 WL 3324690 at *36 (3d Cir. Aug. 4, 2017) (Jordan, J., concurring in part and dissenting in part) (''Because insurance companies would offer such plans as a result of market forces, doing so would not undermine the government's interest in a sustainable and functioning market. . . . Because the government has failed to demonstrate why allowing such a system (not unlike the one that allowed wider choice before the Affordable Care Act) would be unworkable, it has not satisfied strict scrutiny.'' (citation and internal quotation marks omitted)).

[52] *Cf. also Planned Parenthood Ariz., Inc.* v. *Am. Ass'n of Pro-Life Obstetricians & Gynecologists,* 257 P.3d 181, 196 (Ariz. Ct. App. 2011) (''a woman's right to an abortion or to contraception does not compel a private person or entity to facilitate either.'').

objections by extending the exemption under the HRSA Guidelines to encompass entities, and individuals, with sincerely held religious beliefs objecting to contraceptive or sterilization coverage, and by making the accommodation process optional for eligible organizations.

The Departments acknowledge that the foregoing analysis represents a change from the policies and interpretations we previously adopted with respect to the Mandate and the governmental interests that underlie the Mandate. These changes in policy are within the Departments' authority. As the Supreme Court has acknowledged, ''[a]gencies are free to change their existing policies as long as they provide a reasoned explanation for the change.'' *Encino Motorcars, LLC* v. *Navarro,* 136 S. Ct. 2117, 2125 (2016). This ''reasoned analysis'' requirement does not demand that an agency ''demonstrate to a court's satisfaction that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates''. *United Student Aid Funds, Inc.* v. *King,* 200 F. Supp. 3d 163, 169–70 (D.D.C. 2016) (citing *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009)); also, see *New Edge Network, Inc.* v. *FCC,* 461 F.3d 1105, 1112–13 (9th Cir. 2006) (rejecting an argument that ''an agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance'').

Here, for all of the reasons discussed above, the Departments have determined that the Government's interest in the application of contraceptive coverage requirements in this specific context to the plans of certain entities and individuals does not outweigh the sincerely held religious objections of those entities and individuals based on the analyses set forth above. Thus, these interim final rules amend the Departments' July 2015 final regulations to expand the exemption to include additional entities and persons that object based on sincerely held religious beliefs. These rules leave in place HRSA's discretion to continue to require contraceptive and sterilization coverage where no such objection exists, and to the extent that section 2713 of the PHS Act applies. These interim final rules also maintain the existence of an accommodation process, but consistent with our expansion of the exemption, we make the process optional for eligible organizations. HRSA is simultaneously updating its Guidelines to reflect the requirements of these interim final rules.[53]

A. Regulatory Restatements of Section 2713(a) and (a)(4) of the PHS Act

These interim final rules modify the restatements of the requirements of section 2713(a) and (a)(4) of the PHS Act, contained in 26 CFR 54.9815–2713(a)(1) introductory text and (a)(1)(iv), 29 CFR 2590.715–2713(a)(1) introductory text and (a)(1)(iv), and 45 CFR 147.130(a)(1) introductory text and (a)(1)(iv), so that they conform to the statutory text of section 2713 of the PHS Act.

B. Prefatory Language of the Exemption in 45 CFR 147.132

These interim final rules move the religious exemption from 45 CFR 147.131 to a new § 147.132 and expand it as follows. In the prefatory language of § 147.132, these interim final rules specify that not only are certain entities ''exempt,'' but the Guidelines shall not support or provide for an imposition of the contraceptive coverage requirement to such entities. This is an acknowledgement that section 2713(a)(4) of the PHS Act requires women's preventive services coverage only ''as provided for in comprehensive guidelines supported by the Health Resources and Services Administration.'' To the extent the HRSA Guidelines do not provide for or support the application of such coverage to exempt entities, the Affordable Care Act does not require the coverage. Section 147.132 not only describes the exemption of certain entities and plans, but does so by specifying that the HRSA Guidelines do not provide for, or support the application of, such coverage to exempt entities and plans.

C. General Scope of Exemption for Objecting Entities

In the new 45 CFR 147.132 as created by these interim final rules, these rules expand the exemption that was previously located in § 147.131(a). With respect to employers that sponsor group health plans, the new language of § 147.132(a)(1) introductory text and (a)(1)(i) provides exemptions for employers that object to coverage of all or a subset of contraceptives or sterilization and related patient education and counseling based on sincerely held religious beliefs.

For avoidance of doubt, the Departments wish to make clear that the expanded exemption created in § 147.132(a) applies to several distinct entities involved in the provision of coverage to the objecting employer's employees. This explanation is consistent with how prior rules have worked by means of similar language. Section 147.132(a)(1) introductory text and (a)(1)(i), by specifying that ''[a] group health plan and health insurance coverage provided in connection with a group health plan'' is exempt ''to the extent the plan sponsor objects as specified in paragraph (a)(2),'' exempt the group health plans the sponsors of which object, and exempt their health insurance issuers from providing the coverage in those plans (whether or not the issuers have their own objections). Consequently, with respect to Guidelines issued under § 147.130(a)(1)(iv), or the parallel provisions in 26 CFR 54.9815–2713(a)(1)(iv) and 29 CFR 2590.715–2713(a)(1)(iv), the plan sponsor, issuer, and plan covered in the exemption of that paragraph would face no penalty as a result of omitting contraceptive coverage from the benefits of the plan participants and beneficiaries.

Consistent with the restated exemption, exempt entities will not be required to comply with a self-certification process. Although exempt entities do not need to file notices or certifications of their exemption, and these interim final rules do not impose any new notice requirements on them, existing ERISA rules governing group health plans require that, with respect to plans subject to ERISA, a plan document must include a comprehensive summary of the benefits covered by the plan and a statement of the conditions for eligibility to receive benefits. Under ERISA, the plan document provides what benefits are provided to participants and beneficiaries under the plan and, therefore, if an objecting employer would like to exclude all or a subset of contraceptive services, it must ensure that the exclusion is clear in the plan document. Moreover, if there is a reduction in a covered service or benefit, the plan has to disclose that change to plan participants.[54] Thus, where an exemption applies and all or a subset of contraceptive services are omitted from a plan's coverage,

[53] See *https://www.hrsa.gov/womensguidelines/* and *https://www.hrsa.gov/womensguidelines2016/index.html.*

[54] See, for example, 29 U.S.C. 1022, 1024(b), 29 CFR 2520.102–2, 2520.102–3, & 2520.104b–3(d), and 29 CFR 2590.715–2715. Also, see 45 CFR 147.200 (requiring disclosure of the ''exceptions, reductions, and limitations of the coverage,'' including group health plans and group & individual issuers).

otherwise applicable ERISA disclosures must reflect the omission of coverage in ERISA plans. These existing disclosure requirements serve to help provide notice to participants and beneficiaries of what ERISA plans do and do not cover. The Departments invite public comment on whether exempt entities, or others, would find value either in being able to maintain or submit a specific form of certification to claim their exemption, or in otherwise receiving guidance on a way to document their exemption.

The exemptions in § 147.132(a) apply ''to the extent'' of the objecting entities' sincerely held religious beliefs. Thus, entities that hold a requisite objection to covering some, but not all, contraceptive items would be exempt with respect to the items to which they object, but not with respect to the items to which they do not object. Likewise, the requisite objection of a plan sponsor or institution of higher education in § 147.132(a)(1)(i) and (ii) exempts its group health plan, health insurance coverage offered by a health insurance issuer in connection with such plan, and its issuer in its offering of such coverage, but that exemption does not extend to coverage provided by that issuer to other group health plans where the plan sponsor has no qualifying objection. The objection of a health insurance issuer in § 147.132(a)(1)(iii) similarly operates only to the extent of its objection, and as otherwise limited as described below.

D. Exemption of Employers and Institutions of Higher Education

The scope of the exemption is expanded for non-governmental plan sponsors and certain entities that arrange health coverage under these interim final rules. The Departments have consistently taken the position that section 2713(a)(4) of the PHS Act grants HRSA authority to issue Guidelines that provide for and support exemptions from a contraceptive coverage requirement. Since the beginning of rulemaking concerning the Mandate, HRSA and the Departments have repeatedly exercised their discretion to create and modify various exemptions within the Guidelines.[55]

The Departments believe the approach of these interim final rules better aligns our implementation of section 2713(a)(4) of the PHS Act with Congress' intent in the Affordable Care Act and throughout other Federal health care laws. As discussed above, many Federal health care laws and regulations provide exemptions for objections based on religious beliefs, and RFRA applies to the Affordable Care Act. Expanding the exemption removes religious obstacles that entities and certain individuals may face when they otherwise wish to participate in the health care market. This advances the Affordable Care Acts goal of expanding health coverage among entities and individuals that might otherwise be reluctant to participate. These rules also leave in place many Federal programs that subsidize contraceptives for women who are most at risk of unintended pregnancy and who may have more limited access to contraceptives.[56] These interim final rules achieve greater uniformity and simplicity in the regulation of health insurance by expanding the exemptions to include entities that object to the Mandate based on their sincerely held religious beliefs.

The Departments further conclude that it would be inadequate to merely attempt to amend the accommodation process instead of expand the exemption. The Departments have stated in our regulations and court briefings that the existing accommodation with respect to self-insured plans requires contraceptive coverage as part of the same plan as the coverage provided by the employer, and operates in a way ''seamless'' to those plans. As a result, in significant respects, the accommodation process does not actually accommodate the objections of many entities. The Departments have engaged in an effort to attempt to identify an accommodation that would eliminate the plaintiffs' religious objections, including seeking public comment through an RFI, but we stated in January 2017 that we were unable to develop such an approach at that time.

1. Plan Sponsors Generally

The expanded exemptions in these interim final rules cover any kind of non-governmental employer plan sponsor with the requisite objections but, for the sake of clarity, they include an illustrative, non-exhaustive list of employers whose objections qualify the plans they sponsor for an exemption.

Under these interim final rules, the Departments do not limit the Guidelines exemption with reference to nonprofit status or to sections 6033(a)(3)(A)(i) or (iii) of the Code, as previous rules have done. A significant majority of States either impose no contraceptive coverage requirement or offer broader exemptions than the exemption contained in the July 2015 final regulations.[57] Although the practice of States is by no means a limit on the discretion delegated to HRSA by the Affordable Care Act, nor a statement about what the Federal Government may do consistent with RFRA or other limitations in federal law, such State practice can be informative as to the viability of broad protections for religious liberty. In this case, such practice supports the Departments' decision to expand the federal exemption, bringing the Federal Government's practice into greater alignment with the practices of the majority of the States.

2. Section 147.132(a)(1)(i)(A)

Despite not limiting the exemption to certain organizations referred to in section 6033(a)(3)(A)(i) or (iii) of the Code, the exemption in these rules includes such organizations. Section 147.132(a)(1)(i)(A) specifies, as under the prior exemption, that the exemption covers ''a group health plan established or maintained by . . . [a] church, the integrated auxiliary of a church, a convention or association of churches, or a religious order.'' In the preamble to rules setting forth the prior exemption at § 147.132(a), the Departments interpreted this same language used in those rules by declaring that ''[t]he final regulations continue to provide that the availability of the exemption or accommodation be determined on an employer by employer basis, which the Departments continue to believe best balances the interests of religious employers and eligible organizations and those of employees and their dependents.'' (78 FR 39886). Therefore, under the prior exemption, if an employer participated in a house of worship's plan—perhaps because it was affiliated with a house of worship—but was not an integrated auxiliary or a house of worship itself, that employer was not considered to be covered by the

[55] ''The fact that the agency has adopted different definitions in different contexts adds force to the argument that the definition itself is flexible, particularly since Congress has never indicated any disapproval of a flexible reading of the statute.'' *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 863–64 (1984).

[56] See, for example, Family Planning grants in 42 U.S.C. 300, *et seq.;* the Teenage Pregnancy Prevention Program, Public Law 112–74 (125 Stat 786, 1080); the Healthy Start Program, 42 U.S.C. 254c–8; the Maternal, Infant, and Early Childhood Home Visiting Program, 42 U.S.C. 711; Maternal and Child Health Block Grants, 42 U.S.C. 703; 42 U.S.C. 247b–12; Title XIX of the Social Security Act, 42 U.S.C. 1396, *et seq.;* the Indian Health Service, 25 U.S.C. 13, 42 U.S.C. 2001(a), & 25 U.S.C. 1601, *et seq.;* Health center grants, 42 U.S.C. 254b(e), (g), (h), & (i); the NIH Clinical Center, 42 U.S.C. 248; and the Personal Responsibility Education Program, 42 U.S.C. 713.

[57] See Guttmacher Institute, ''Insurance Coverage of Contraceptives'' available at *https://www.guttmacher.org/state-policy/explore/insurance-coverage-contraceptives.*

exemption, even though it was, in the ordinary meaning of the text of the prior regulation, participating in a ''plan established or maintained by a [house of worship].''

Under these interim final rules, however, the Departments intend that, when this regulation text exempts a plan ''established or maintained by'' a house of worship or integrated auxiliary, such exemption will no longer ''be determined on an employer by employer basis,'' but will be determined on a plan basis—that is, by whether the plan is a ''plan established or maintained by'' a house of worship or integrated auxiliary. This interpretation better conforms to the text of the regulation setting forth the exemption—in both the prior regulation and in the text set forth in these interim final rules. It also offers appropriate respect to houses of worship and their integrated auxiliaries not only in their internal employment practices but in their choice of organizational form and/or in their activity of establishing or maintaining health plans for employees of associated employers that do not meet the threshold of being integrated auxiliaries. Moreover, under this interpretation, houses of worship would not be faced with the potential prospect of services to which they have a religious objection being covered for employees of an associated employer participating in a plan they have established and maintain.

The Departments do not believe there is a sufficient factual basis to exclude from this part of the exemption entities that are so closely associated with a house of worship or integrated auxiliary that they are permitted participation in its health plan, but are not themselves integrated auxiliaries. Additionally, this interpretation is not inconsistent with the operation of the accommodation under the prior rule, to the extent that, in practice and as discussed elsewhere herein, it does not force contraceptive coverage to be provided on behalf of the plan participants of many religious organizations in a self-insured church plan exempt from ERISA—which are exempt in part because the plans are established and maintained by a church. (Section 3(33)(A) of ERISA) In several lawsuits challenging the Mandate, the Departments took the position that some plans established and maintained by houses of worship, but that included entities that were not integrated auxiliaries, were church plans under section 3(33) of ERISA and, thus, the Government ''has no authority to require the plaintiffs' TPAs to provide contraceptive coverage at this time.'' *Roman Catholic Archdiocese of N.Y.* v. *Sebelius,* 987 F. Supp. 2d 232, 242 (E.D.N.Y. 2013). Therefore the Departments believe it is most appropriate to use a plan basis, not an employer by employer basis, to determine the scope of an exemption for a group health plan established or maintained by a house of worship or integrated auxiliary.

3. Section 147.132(a)(1)(i)(B)

Section 147.132(a)(1)(i)(B) of the rules specifies that the exemption includes the plans of plan sponsors that are nonprofit organizations.

4. Section 147.132(a)(1)(i)(C)

Under § 147.132(a)(1)(i)(C), the rules extend the exemption to the plans of closely held for-profit entities. This is consistent with the Supreme Court's ruling in *Hobby Lobby,* which declared that a corporate entity is capable of possessing and pursuing non-pecuniary goals (in *Hobby Lobby,* religion), regardless of whether the entity operates as a nonprofit organization, and rejecting the Departments' argument to the contrary. (134 S. Ct. 2768–75) Some reports and industry experts have indicated that not many for-profit entities beyond those that had originally brought suit have sought relief from the Mandate after *Hobby Lobby.*[58]

5. Section 147.132(a)(1)(i)(D)

Under § 147.132(a)(1)(i)(D), the rules extend the exemption to the plans of for-profit entities that are not closely held. The July 2015 final regulations extended the accommodation to for-profit entities only if they are closely held, by positively defining what constitutes a closely held entity. The Departments implicitly recognized the difficulty of providing an affirmative definition of closely held entities in the July 2015 final regulations when we adopted a definition that included entities that are merely ''substantially similar'' to certain specified parameters, and we allowed entities that were not sure if they met the definition to inquire with HHS; HHS was permitted to decline to answer the inquiry, at which time the entity would be deemed to qualify as an eligible organization. The exemptions in these interim final rules do not need to address this difficulty because they include both for-profit entities that are closely held and for-profit entities that are not closely held.[59] The mechanisms for determining whether a company has adopted and holds such principles or views is a matter of well-established State law with respect to corporate decision-making,[60] and the Departments expect that application of such laws would cabin the scope of this exemption.

In including entities in the exemption that are not closely held, these interim final rules provide for the possibility that some publicly traded entities may use the exemption. Even though the Supreme Court did not extend its holding in *Hobby Lobby* to publicly traded corporations (the matter could be resolved without deciding that question), the Court did instruct that RFRA applies to corporations because they are ''persons'' as that term is defined in 1 U.S.C. 1. Given that the definition under 1 U.S.C. 1 applies to any corporation, the Departments consider it appropriate to extend the exemption set forth in these interim final rules to for-profit corporations whether or not they are closely held. The Departments are generally aware that in a country as large as America comprised of a supermajority of religious persons, some publicly traded entities might claim a religious character for their company, or that the majority of shares (or voting shares) of some publicly traded companies might be controlled by a small group of religiously devout persons so as to set forth such a religious character.[61] The fact that such a company is religious does not mean that it will have an objection to contraceptive coverage, and there are many fewer publicly traded companies than there are closely held ones. But our experience with closely held companies is that some, albeit a small minority, do have religious objections to contraceptive coverage. Thus we consider it possible, though very unlikely, that a religious publicly

[58] See Jennifer Haberkorn, ''Two years later, few Hobby Lobby copycats emerge,'' *Politico* (Oct. 11, 2016), available at *http://www.politico.com/story/2016/10/obamacare-birth-control-mandate-employers-229627.*

[59] In the companion interim final rules published elsewhere in this **Federal Register**, the Departments provide an exemption on an interim final basis to closely held entities by using a negative definition: entities that do not have publicly traded ownership interests as defined by certain securities required to be registered under section 12 of the Securities Exchange Act of 1934. Although this is a more workable definition than set forth in our previous rules, we have determined that it is appropriate to offer the expanded religious exemptions to certain entities whether or not they have publicly traded ownership interests.

[60] Although the Departments do not prescribe any form or notification, they would expect that such principles or views would have been adopted and documented in accordance with the laws of the jurisdiction under which they are incorporated or organized.

[61] *See, e.g., Nasdaq.com,* ''4 Publicly Traded Religious Companies if You're Looking to Invest in Faith'' (Feb. 7, 2014), available at *http://www.nasdaq.com/article/4-publicly-traded-religious-companies-if-youre-looking-to-invest-in-faith-cm324665.*

traded company might have objections to contraceptive coverage. At the same time, we are not aware of any publicly traded entities that challenged the Mandate specifically either publicly or in court. The Departments agree with the Supreme Court that it is improbable that many publicly traded companies with numerous ''unrelated shareholders—including institutional investors with their own set of stakeholders—would agree to run a corporation under the same religious beliefs'' and thereby qualify for the exemption. (134 S. Ct. at 2774)

6. Section 147.132(a)(1)(i)(E)

Under § 147.132(a)(1)(i)(E), the rules extend the exemption to the plans of any other non-governmental employer. The plans of governmental employers are not covered by the plan sponsor exemption of § 147.132(a)(1)(i). The Departments are not aware of reasons why it would be appropriate or necessary to offer religious exemptions to governmental employer plan sponsors in the United States with respect to the contraceptive Mandate. But, as discussed below, governmental employers are permitted to respect an individual's objection under § 147.132(b) and thus to provide health insurance coverage without the objected-to contraceptive coverage to such individual. Where that exemption is operative, the Guidelines may not be construed to prevent a willing governmental plan sponsor of a group health plan from offering a separate benefit package option, or a separate policy, certificate or contract of insurance, to any individual who objects to coverage or payments for some or all contraceptive services based on sincerely held religious beliefs.

By the general extension of the exemption to the plans of plan sponsors in § 147.132(a)(1)(i), these interim final rules also exempt group health plans sponsored by an entity other than an employer (for example, a union) that objects based on sincerely held religious beliefs to coverage of contraceptives or sterilization.

7. Section 147.132(a)(1)(ii)

As in the previous rules, the plans of institutions of higher education that arrange student health insurance coverage will continue to be treated similarly to the way in which the plans of employers are treated, but for the purposes of such plans being exempt or electing the optional accommodation, rather than merely being eligible for the accommodation as in the previous rule. These interim final rules specify, in § 147.132(a)(1)(ii), that the exemption is extended, in the case of institutions of higher education (as defined in 20 U.S.C. 1002), to their arrangement of student health insurance coverage, in a manner comparable to the applicability of the exemption for group health insurance coverage provided in connection with a group health plan established or maintained by a plan sponsor. As mentioned above, because the Affordable Care Act does not require institutions of higher education to arrange student coverage, some institutions of higher education that object to the Mandate appear to have chosen to stop arranging student plans rather than comply with the Mandate or use the accommodation. Extending the exemption in these interim final rules may remove an obstacle to such entities deciding to offer student plans, thereby giving students another health insurance option.

E. Exemption for Issuers

These interim final rules extend the exemption, in § 147.132(a)(1)(iii), to health insurance issuers offering group or individual health insurance coverage that sincerely hold their own religious objections to providing coverage for contraceptive services.

The Departments are not currently aware of health insurance issuers that possess their own religious objections to offering contraceptive coverage. Nevertheless, many Federal health care conscience laws and regulations protect issuers or plans specifically. For example, 42 U.S.C. 1395w–22(j)(3)(B) and 1396u–2(b)(3) protect plans or managed care organizations in Medicaid or Medicare Advantage. The Weldon Amendment protects HMOs, health insurance plans, and any other health care organizations are protected from being required to provide coverage or pay for abortions. See, for example, Consolidated Appropriations Act of 2017, Public Law 115–31, Div. H, Title V, Sec. 507(d). Congress also declared this year that ''it is the intent of Congress'' to include a ''conscience clause'' which provides exceptions for religious beliefs if the District of Columbia requires ''the provision of contraceptive coverage by health insurance plans.'' See *Id.* at Div. C, Title VIII, Sec. 808. In light of the clearly expressed intent of Congress to protect religious liberty, particularly in certain health care contexts, along with the specific efforts to protect issuers, the Departments have concluded that an exemption for issuers is appropriate.

As discussed above, where the exemption for plan sponsors or institutions of higher education applies, issuers are exempt under those sections with respect to providing coverage in those plans. The issuer exemption in § 147.132(a)(1)(iii) adds to that protection, but the additional protection operates in a different way than the plan sponsor exemption operates. As set forth in these interim final rules, the only plan sponsors, or in the case of individual insurance coverage, individuals, who are eligible to purchase or enroll in health insurance coverage offered by an exempt issuer that does not cover some or all contraceptive services are plan sponsors or individuals who themselves object and are otherwise exempt based on their objection. Thus, the issuer exemption specifies that where a health insurance issuer providing group health insurance coverage is exempt under paragraph (a)(1)(iii), the plan remains subject to any requirement to provide coverage for contraceptive services under Guidelines issued under 42 CFR 147.130(a)(1)(iv) unless the plan is otherwise exempt from that requirement. Accordingly, the only plan sponsors, or in the case of individual insurance coverage, individuals, who are eligible to purchase or enroll in health insurance coverage offered by an issuer that is exempt under this paragraph (a)(1)(iii) that does not include coverage for some or all contraceptive services are plan sponsors or individuals who themselves object and are exempt. Issuers that hold religious objections should identify to plan sponsors the lack of contraceptive coverage in any health insurance coverage being offered that is based on the issuer's exemption, and communicate the group health plan's independent obligation to provide contraceptive coverage, unless the group health plan itself is exempt under regulations governing the Mandate.

In this way, the issuer exemption serves to protect objecting issuers both from being asked or required to issue policies that cover contraception in violation of the issuers' sincerely held religious beliefs, and from being asked or required to issue policies that omit contraceptive coverage to non-exempt entities or individuals, thus subjecting the issuers to potential liability if those plans are not exempt from the Guidelines. At the same time, the issuer exemption will not serve to remove contraceptive coverage obligations from any plan or plan sponsor that is not also exempt, nor will it prevent other issuers from being required to provide contraceptive coverage in individual insurance coverage. Permitting issuers to object to offering contraceptive coverage based on sincerely held religious beliefs will allow issuers to

continue to offer coverage to plan sponsors and individuals, without subjecting them to liability under section 2713(a)(4) of the PHS Act or related provisions for their failure to provide contraceptive coverage.

The issuer exemption does not specifically include third party administrators, although the optional accommodation process provided under these interim final rules specifies that third party administrators cannot be required to contract with an entity that invokes that process. Some religious third party administrators have brought suit in conjunction with suits brought by organizations enrolled in ERISA-exempt church plans. Such plans are now exempt under these interim final rules, and their third party administrators, as claims processors, are under no obligation under section 2713(a)(4) of the PHS Act to provide benefits for contraceptive services, as that section applies only to plans and issuers. In the case of ERISA-covered plans, plan administrators are obligated under ERISA to follow the plan terms, but it is the Departments' understanding that third party administrators are not typically designated as plan administrators under section 3(16) of ERISA and, therefore, would not normally act as plan administrators under section 3(16) of ERISA. Therefore, to the Departments' knowledge, it is only under the existing accommodation process that third party administrators are required to undertake any obligations to provide or arrange for contraceptive coverage to which they might object. These interim final rules make the accommodation process optional for employers and other plan sponsors, and specify that third party administrators that have their own objection to complying with the accommodation process may decline to enter into, or continue, contracts as third party administrators of such plans. For these reasons, these interim final rules do not otherwise exempt third party administrators. The Departments solicit public comment, however, on whether there are situations where there may be an additional need to provide distinct protections for third party administrators that may have religious beliefs implicated by the Mandate.

F. Scope of Objections Needed for the Objecting Entity Exemption

Exemptions for objecting entities specify that they apply where the entities object as specified in § 147.132(a)(2). That paragraph specifies that exemptions for objecting entities will apply to the extent that an entity described in § 147.132(a)(1) objects to its establishing, maintaining, providing, offering, or arranging (as applicable) coverage, payments, or a plan that provides coverage or payments for some or all contraceptive services, based on its sincerely held religious beliefs.

G. Individual Exemption

These interim final rules include a special rule pertaining to individuals (referred to here as the ''individual exemption''). Section 147.132(b) provides that nothing in § 147.130(a)(1)(iv), 26 CFR 54.9815–2713(a) (1)(iv), or 29 CFR 2590.715–2713(a)(1)(iv), may be construed to prevent a willing plan sponsor of a group health plan or a willing health insurance issuer offering group or individual health insurance coverage, from offering a separate benefit package option, or a separate policy, certificate, or contract of insurance, to any individual who objects to coverage or payments for some or all contraceptive services based on the individual's sincerely held religious beliefs. The individual exemption extends to the coverage unit in which the plan participant, or subscriber in the individual market, is enrolled (for instance, to family coverage covering the participant and his or her beneficiaries enrolled under the plan), but does not relieve the plan's or issuer's obligation to comply with the Mandate with respect to the group health plan at large or, as applicable, to any other individual policies the issuer offers.

This individual exemption allows plan sponsors and issuers that do not specifically object to contraceptive coverage to offer religiously acceptable coverage to their participants or subscribers who do object, while offering coverage that includes contraception to participants or subscribers who do not object. This individual exemption can apply with respect to individuals in plans sponsored by private employers or governmental employers. For example, in one case brought against the Departments, the State of Missouri enacted a law under which the State is not permitted to discriminate against insurance issuers that offer health plans without coverage for contraception based on employees' religious beliefs, or against the individual employees who accept such offers. See *Wieland,* 196 F. Supp. 3d at 1015–16 (quoting Mo. Rev. Stat. 191.724). Under the individual exemption of these interim final rules, employers sponsoring governmental plans would be free to honor the objections of individual employees by offering them plans that omit contraceptive coverage, even if those governmental entities do not object to offering contraceptive coverage in general.

This ''individual exemption'' cannot be used to force a plan (or its sponsor) or an issuer to provide coverage omitting contraception, or, with respect to health insurance coverage, to prevent the application of State law that requires coverage of such contraceptives or sterilization. Nor can the individual exemption be construed to require the guaranteed availability of coverage omitting contraception to a plan sponsor or individual who does not have a sincerely held religious objection. This individual exemption is limited to the requirement to provide contraceptive coverage under section 2713(a)(4) of the PHS Act, and does not affect any other Federal or State law governing the plan or coverage. Thus, if there are other applicable laws or plan terms governing the benefits, these interim final rules do not affect such other laws or terms.

The Departments believe the individual exemption will help to meet the Affordable Care Act's goal of increasing health coverage because it will reduce the incidence of certain individuals choosing to forego health coverage because the only coverage available would violate their sincerely held religious beliefs.[62] At the same time, this individual exemption ''does not undermine the governmental interests furthered by the contraceptive coverage requirement,''[63] because, when the exemption is applicable, the individual does not want the coverage, and therefore would not use the objectionable items even if they were covered.

H. Optional Accommodation

Despite expanding the scope of the exemption, these rules also keep the accommodation process, but revise it so as to make it optional. In this way, objecting employers are no longer required to choose between direct compliance or compliance through the accommodation. These rules maintain the location of the accommodation process in the Code of Federal Regulations at 45 CFR 147.131, 26 CFR 54.9815–2713A, and 29 CFR 2590.715–2713A. These rules, by virtue of expanding the plan sponsor exemption beyond houses of worship and integrated auxiliaries that were

[62] See, for example, *Wieland,* 196 F. Supp. 3d at 1017, and *March for Life,* 128 F. Supp. 3d at 130, where the courts noted that the individual employee plaintiffs indicated that they viewed the Mandate as pressuring them to ''forgo health insurance altogether.''

[63] 78 FR 39874.

previously exempt, and beyond religious nonprofit groups that were previously accommodated, and by defining eligible organizations for the accommodation with reference to those covered by the exemption, likewise expand the kinds of entities that may use the optional accommodation. This includes plan sponsors with sincerely held religious beliefs for the reasons described above. Consequently, under these interim final rules, objecting employers may make use of the exemption, or may choose to pursue the optional accommodation process. If an eligible organization pursues the optional accommodation process through the EBSA Form 700 or other specified notice to HHS, it voluntarily shifts an obligation to provide separate but seamless contraceptive coverage to its issuer or third party administrator.

The fees adjustment process for qualifying health issuers or third party administrators pursuant to 45 CFR 156.50 is not modified, and (as specified therein) requires for its applicability that an exception under OMB Circular No. A–25R be in effect as the Secretary of the Department of Health and Human Services requests.

If an eligible organization wishes to revoke its use of the accommodation, it can do so under these interim final rules and operate under its exempt status. As part of its revocation, the issuer or third party administrator of the eligible organization must provide participants and beneficiaries written notice of such revocation as specified in guidance issued by the Secretary of the Department of Health and Human Services. This revocation process applies both prospectively to eligible organizations who decide at a later date to avail themselves of the optional accommodation and then decide to revoke that accommodation, as well as to organizations that were included in the accommodation prior to the effective date of these interim final rules either by their submission of an EBSA Form 700 or notification, or by some other means under which their third party administrator or issuer was notified by DOL or HHS that the accommodation applies. Consistent with other applicable laws, the issuer or third party administrator of an eligible organization must promptly notify plan participants and beneficiaries of the change of status to the extent such participants and beneficiaries are currently being offered contraceptive coverage at the time the accommodated organization invokes its exemption. If contraceptive coverage is being offered by an issuer or third party administrator through the accommodation process, the revocation will be effective on the 1st day of the 1st plan year that begins on or after 30 days after the date of the revocation (to allow for the provision of notice to plan participants in cases where contraceptive benefits will no longer be provided). Alternatively, an eligible organization may give 60-days notice pursuant to section 2715(d)(4) of the PHS Act,[64] if applicable, to revoke its use of the accommodation process.

The Departments have eliminated the provision in the previous accommodation under which an issuer is deemed to have complied with the Mandate where the issuer relied reasonably and in good faith on a representation by an eligible organization as to its eligibility for the accommodation, even if that representation was later determined to be incorrect. Because any organization with a sincerely held religious objection to contraceptive coverage is now eligible for the optional accommodation under these interim final rules and is also exempt, the Departments believe there is minimal opportunity for mistake or misrepresentation by the organization, and the reliance provision is no longer necessary.

I. Definition of Contraceptive Services for the Purpose of These Rules

The interim final rules specify that when the rules refer to ''contraceptive'' services, benefits, or coverage, such terms include contraceptive or sterilization items, services, or related patient education or counseling, to the extent specified for purposes of § 147.130(a)(1)(iv). This was the case under the previous rules, as expressed in the preamble text of the various iterations of the regulations, but the Departments wish to make the scope clear by specifying it in the regulatory text.

J. Conclusion

The Departments believe that the Guidelines and the exemptions expanded herein will advance the limited purposes for which Congress imposed section 2713 of the PHS Act, while acting consistently with Congress' well-established record of allowing for religious exemptions with respect to especially sensitive health care and health insurance requirements. These interim final rules leave fully in place over a dozen Federal programs that provide, or subsidize, contraceptives for women, including for low income women based on financial need. These interim final rules also maintain HRSA's discretion to decide whether to continue to require contraceptive coverage under the Guidelines (in plans where Congress applied section 2713 of the PHS Act) if no objection exists. The Departments believe this array of programs and requirements better serves the interest of providing contraceptive coverage while protecting the conscience rights of entities that have sincerely held religious objections to some or all contraceptive or sterilization services.

The Departments request and encourage public comments on all matters addressed in these interim final rules.

V. Interim Final Rules, Request for Comments and Waiver of Delay of Effective Date

Section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries of the Treasury, Labor, and HHS (collectively, the Secretaries) to promulgate any interim final rules that they determine are appropriate to carry out the provisions of chapter 100 of the Code, part 7 of subtitle B of title I of ERISA, and part A of title XXVII of the PHS Act, which include sections 2701 through 2728 of the PHS Act and the incorporation of those sections into section 715 of ERISA and section 9815 of the Code. These interim final rules fall under those statutory authorized justifications, as did previous rules on this matter (75 FR 41726; 76 FR 46621; 79 FR 51092).

Section 553(b) of the Administrative Procedure Act (APA) requires notice and comment rulemaking, involving a notice of proposed rulemaking and a comment period prior to finalization of regulatory requirements—except when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. These provisions of the APA do not apply here because of the specific authority granted to the Secretaries by section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act.

Even if these provisions of the APA applied, they would be satisfied: The Departments have determined that it would be impracticable and contrary to the public interest to delay putting these provisions in place until a full public notice-and-comment process is completed. As discussed earlier, the Departments have issued three interim final rules implementing this section of the PHS Act because of the immediate needs of covered entities and the weighty matters implicated by the HRSA Guidelines. As recently as December 20, 2016, HRSA updated

[64] See also 26 CFR 54.9815–2715(b); 29 CFR 2590.715–2715(b); 45 CFR 147.200(b).

those Guidelines without engaging in the regulatory process (because doing so is not a legal requirement), and announced that it plans to continue to update the Guidelines.

Dozens of lawsuits over the Mandate have been pending for nearly 5 years. The Supreme Court remanded several of those cases more than a year ago, stating that on remand ''[w]e anticipate that the Courts of Appeals will allow the parties sufficient time to resolve any outstanding issues between them''. *Zubik,* 136 S. Ct. at 1560. During that time, Courts of Appeals have been asking the parties in those cases to submit status reports every 30 through 90 days. Those status reports have informed the courts that the parties were in discussions, and about the RFI issued in late 2016 and its subsequent comment process and the FAQ the Departments issued indicating that we could not find a way at that time to amend the accommodation process so as to satisfy objecting eligible organizations while pursuing the Departments' policy goals. Since then, several courts have issued orders setting more pressing deadlines. For example, on March 10, 2017, the United States Court of Appeals for the Seventh Circuit ordered that, by May 1, 2017, ''the court expects to see either a report of an agreement to resolve the case or detailed reports on the parties' respective positions. In the event no agreement is reported on or before May 1, 2017, the court will plan to schedule oral argument on the merits of the case on short notice after that date''. The Departments submitted a status report but were unable to set forth their specific position because this interim final rule was not yet on public display. Instead, the Departments informed the Court that we ''are now considering whether further administrative action would be appropriate''. In response, the court extended the deadline to June 1, 2017, again declaring the court expected ''to see either a report of an agreement to resolve the case or detailed reports on the parties' respective positions''. The Departments were again unable to set forth their position in that status report, but were able to state that the ''Departments of Health and Human Services, Labor, and the Treasury are engaged in rulemaking to reconsider the regulations at issue here,'' citing *https://www.reginfo.gov/public/do/eoDetails?rrid=127381.*

As discussed above, the Departments have concluded that, in many instances, requiring certain objecting entities or individuals to choose between the Mandate, the accommodation, or penalties for noncomplaince has violated RFRA. Good cause exists to issue the expanded exemption in these interim final rules in order to cure such violations (whether among litigants or among similarly situated parties that have not litigated), to help settle or resolve cases, and to ensure, moving forward, that our regulations are consistent with any approach we have taken in resolving certain litigation matters.

The Departments have also been subject to temporary injunctions protecting many religious nonprofit organizations from being subject to the accommodation process against their wishes, while many other organizations are fully exempt, have permanent court orders blocking the contraceptive coverage requirement, or are not subject to section 2713 of the PHS Act and its enforcement due to Congress' limited application of that requirement. Good cause exists to change the Departments' previous rules to direct HRSA to bring its Guidelines in accord with the legal realities and remove the threat of a future violation of religious beliefs, including where such violations are contrary to Federal law.

Other objecting entities similarly have not had the protection of court injunctions. This includes some nonprofit entities that have sued the Departments, but it also includes some organizations that do not have lawsuits pending against us. For example, many of the closely held for-profit companies that brought the array of lawsuits challenging the Mandate leading up to the decision in *Hobby Lobby* are not protected by injunctions from the current rules, including the requirement that they either fully comply with the Mandate or subject themselves to the accommodation. Continuing to apply the Mandate's regulatory burden on individuals and organizations with religious beliefs against it could serve as a deterrent for citizens who might consider forming new entities—nonprofit or for-profit—and to offering health insurance in employer-sponsored plans or plans arranged by institutions of higher education. Delaying the protection afforded by these interim final rules would be contrary to the public interest because it would serve to extend for many months the harm caused to all entities and individuals with religious objections to the Mandate. Good cause exists to provide immediate resolution to this myriad of situations rather than leaving them to continued uncertainty, inconsistency, and cost during litigation challenging the previous rules.

These interim final rules provide a specific policy resolution that courts have been waiting to receive from the Departments for more than a year. If the Departments were to publish a notice of proposed rulemaking instead of these interim final rules, many more months could pass before the current Mandate is lifted from the entities receiving the expanded exemption, during which time those entities would be deprived of the relief clearly set forth in these interim final rules. In response to several of the previous rules on this issue—including three issued as interim final rules under the statutory authority cited above—the Departments received more than 100,000 public comments on multiple occasions. Those comments included extensive discussion about whether and by what extent to expand the exemption. Most recently, on July 26, 2016, the Departments issued a request for information (81 FR 47741) and received over 54,000 public comments about different possible ways to resolve these issues. In connection with past regulations, the Departments have offered or expanded a temporary safe harbor allowing organizations that were not exempt from the HRSA Guidelines to operate out of compliance with the Guidelines. The Departments will fully consider comments submitted in response to these interim final rules, but believe that good cause exists to issue the rules on an interim final basis before the comments are submitted and reviewed.

As the United States Court of Appeals for the D.C. Circuit stated with respect to an earlier interim final rule promulgated with respect to this issue in *Priests for Life* v. *U.S. Department of Health and Human Services,* 772 F.3d 229, 276 (D.C. Cir. 2014), vacated on other grounds, *Zubik* v. *Burwell,* 136 S. Ct. 1557 (2016), ''[S]everal reasons support HHS's decision not to engage in notice and comment here''. Among other things, the Court noted that ''the agency made a good cause finding in the rule it issued''; that ''the regulations the interim final rule modifies were recently enacted pursuant to notice and comment rulemaking, and presented virtually identical issues''; that ''HHS will expose its interim rule to notice and comment before its permanent implementation''; and that ''delay in implementation of the rule would interfere with the prompt availability of contraceptive coverage and delay the implementation of the alternative opt-out for religious objectors''. *Id.* at 277.

Delaying the availability of the expanded exemption would delay the ability of those organizations and individuals to avail themselves of the relief afforded by these interim final rules. Good cause is supported by

providing relief for entities and individuals for whom the Mandate operates in violation of their sincerely held religious beliefs, but who would have to experience that burden for many more months under the prior regulations if these rules are not issued on an interim final basis. Good cause is also supported by the effect of these interim final rules in bringing to a close the uncertainty caused by years of litigation and regulatory changes made under section 2713(a)(4) of the PHS Act. Issuing interim final rules with a comment period provides the public with an opportunity to comment on whether these regulations expanding the exemption should be made permanent or subject to modification without delaying the effective date of the regulations.

Delaying the availability of the expanded exemption would also increase the costs of health insurance. As reflected in litigation pertaining to the Mandate, some entities are in grandfathered health plans that do not cover contraception. They wish to make changes to their health plans that will reduce the costs of insurance coverage for their beneficiaries or policyholders, but which would cause the plans to lose grandfathered status. They are refraining from making those changes—and therefore are continuing to incur and pass on higher insurance costs—to prevent the Mandate from applying to their plans in violation of their consciences. Issuing these rules on an interim final basis is necessary in order to help reduce the costs of health insurance for such entities and their plan participants.

These interim final rules also set forth an optional accommodation process, and expand eligibility for that process to a broader category of entities. Delaying the availability of the optional accommodation process would delay the ability of organizations that do not now qualify for the accommodation, but wish to opt into it, to be able to do so and therefore to provide a mechanism for contraceptive coverage to be provided to their employees while the organization's religious objections are accommodated.

For the foregoing reasons, the Departments have determined that it would be impracticable and contrary to the public interest to engage in full notice and comment rulemaking before putting these interim final rules into effect, and that it is in the public interest to promulgate interim final rules. For the same reasons, the Departments have determined, consistent with section 553(d) of the APA (5 U.S.C. 553(d)), that there is good cause to make these interim final rules effective immediately upon filing at the Office of the Federal Register.

VI. Economic Impact and Paperwork Burden

We have examined the impacts of the interim final rules 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 Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2) and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

A. Executive Orders 12866 and 13563—Department of HHS and Department of Labor

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, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a regulation: (1) Having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any one year), and an ''economically significant'' regulatory action is subject to review by the Office of Management and Budget (OMB). As discussed below regarding anticipated effects of these rules and the Paperwork Reduction Act, these interim final rules are not likely to have economic impacts of $100 million or more in any 1 year, and therefore do not meet the definition of ''economically significant'' under Executive Order 12866. However, OMB has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Therefore, OMB has reviewed these final regulations, and the Departments have provided the following assessment of their impact.

1. Need for Regulatory Action

These interim final rules amend the Departments' July 2015 final regulations to expand the exemption from the requirement to provide coverage for contraceptives and sterilization, established under the HRSA Guidelines, promulgated under section 2713(a)(4) of the PHS Act, section 715(a)(1) of the ERISA, and section 9815(a)(1) of the Code, and to revise the accommodation process to make it optional for eligible organizations. The expanded exemption would apply to individuals and entities that have religious objections to some (or all) of the contraceptive and/or sterilization services that would be covered under the Guidelines. Such action is taken, among other reasons, to provide for participation in the health insurance market by certain entities or individuals free from penalties for violating sincerely held religious beliefs opposed to providing or receiving coverage of contraceptive services, and to resolve many of the lawsuits that have been filed against the Departments.

2. Anticipated Effects

The Departments assess this interim final rule together with a companion interim final rule concerning moral but non-religious conscientious objections to contraception, published elsewhere in this **Federal Register**. Regarding entities that are extended an exemption, absent expansion of the exemption the Guidelines would require many of these entities and individuals to either: Pay for coverage of contraceptive services that they find religiously objectionable; submit self-certifications that would result in their issuer or third party administrator paying for such services for their employees, which some entities also believe entangles them in the provision of such objectionable coverage; or, pay tax penalties or be

subject to other adverse consequences for non-compliance with these requirements. These interim final rules remove certain associated burdens imposed on these entities and individuals—that is, by recognizing their religious objections and exempting them—on the basis of such objections—from the contraceptive and/or sterilization coverage requirement of the HRSA Guidelines and making the accommodation process optional for eligible organizations.

To the extent that entities choose to revoke their accommodated status to make use of the expanded exemption immediately, a notice will need to be sent to enrollees (either by the entity or by the issuer or third party administrator) that their contraceptive coverage is changing, and guidance will reflect that such a notice requirement is imposed no more than is already required by preexisting rules that require notices to be sent to enrollees of changes to coverage during a plan year. If the entities wait until the start of their next plan year to change to exempt status, instead of doing so during a plan year, those entities generally will also be able to avoid sending any supplementary notices in addition to what they would otherwise normally send prior to the start of a new plan year. Additionally, these interim final rules provide such entities with an offsetting regulatory benefit by the exemption itself and its relief of burdens on their religious beliefs. As discussed below, assuming that more than half of entities that have been using the previous accommodation will seek immediate revocation of their accommodated status and notices will be sent to all their enrollees, the total estimated cost of sending those notices will be $51,990.

The Departments estimate that these interim final rules will not result in any additional burdens or costs on issuers or third party administrators. As discussed below, the Departments believe that 109 of the 209 entities making use of the accommodation process will instead make use of their newly exempt status. In contrast, the Departments expect that a much smaller number (which we assume to be 9) will make use of the accommodation that were not provided access to it previously. Reduced burdens for issuers and third party administrators due to reductions in use of the accommodation will more than offset increased obligations on issuers and third party administrators serving the fewer number of entities that will newly opt into the accommodation. This will lead to a net decrease in burdens and costs on issuers and third party administrators, who will no longer have continuing obligations imposed on them by the accommodation.

These interim final rules will result in some persons covered in plans of newly exempt entities not receiving coverage or payments for contraceptive services. The Departments do not have sufficient data to determine the actual effect of these rules on plan participants and beneficiaries, including for costs they may incur for contraceptive coverage, nor of unintended pregnancies that may occur. As discussed above and for reasons explained here, there are multiple levels of uncertainty involved in measuring the effect of the expanded exemption, including but not limited to—

- How many entities will make use of their newly exempt status.
- how many entities will opt into the accommodation maintained by these rules, under which their plan participants will continue receiving contraceptive coverage.
- which contraceptive methods some newly exempt entities will continue to provide without cost-sharing despite the entity objecting to other methods (for example, as reflected in *Hobby Lobby,* several objecting entities still provide coverage for 14 of the 18 women's contraceptive or sterilization methods, 134 S. Ct. at 2766).
- how many women will be covered by plans of entities using their newly exempt status.
- which of the women covered by those plans want and would have used contraceptive coverage or payments for contraceptive methods that are no longer covered by such plans.
- whether, given the broad availability of contraceptives and their relatively low cost, such women will obtain and use contraception even if it is not covered.
- the degree to which such women are in the category of women identified by IOM as most at risk of unintended pregnancy.
- the degree to which unintended pregnancies may result among those women, which would be attributable as an effect of these rules only if the women did not otherwise use contraception or a particular contraceptive method due to their plan making use of its newly exempt status.
- the degree to which such unintended pregnancies may be associated with negative health effects, or whether such effects may be offset by other factors, such as the fact that those women will be otherwise enrolled in insurance coverage.
- the extent to which such women will qualify for alternative sources of contraceptive access, such as through a parent's or spouse's plan, or through one of the many governmental programs that subsidize contraceptive coverage to supplement their access.

The Departments have access to sources of information discussed in the following paragraphs that are relevant to this issue, but those sources do not provide a full picture of the impact of these interim final rules.

First, the prior rules already exempted certain houses of worship and their integrated auxiliaries. Further, as discussed above, the prior accommodation process allows hundreds of additional religious nonprofit organizations in self-insured church plans that are exempt from ERISA to file a self-certification or notice that relieves not only themselves but, in effect, their third party administrators of any obligation to provide contraceptive coverage or payments. Although in the latter case, third party administrators are legally permitted to provide the coverage, several self-insured church plans themselves have expressed an objection in litigation to allowing such contraceptive coverage to be provided, and according to information received during litigation, it appears that such contraceptive coverage has not been provided. In addition, a significant portion of the lawsuits challenging the Mandate were brought by a single firm representing Catholic dioceses and related entities covered by their diocese-sponsored plans. In that litigation, the Departments took the position that, where those diocese-sponsored plans are self-insured, those plans are likely church plans exempt from ERISA.[65] For the purposes of considering whether the expanded exemption in these rules affects the persons covered by such diocese-sponsored plans, the Departments continue to assume that such plans are similar to other objecting entities using self-insured church plans with respect to their third party administrators being unlikely to provide contraceptive coverage to plan participants and beneficiaries under the previous rule. Therefore the

[65] See, for example, Brief in Opp. To Pls.' Mot. for Prelim. Inj., *Brandt* v. *Burwell,* No. 2:14–cv–681–AJS, doc. #23 (W.D. Pa. filed June 10, 2014) (arguing that ''plaintiffs have not established an injury in fact to the degree plaintiffs have a self-insured church plan,'' based on the fact that ''the same law firm representing the plaintiffs here has suggested in another similar case that all 'Catholic entities like the Archdiocese participate in ''church plans.'' '); *Roman Catholic Archdiocese of N.Y.* v. *Sebelius,* 987 F. Supp. 2d 232, 242 (E.D.N.Y. 2013) (''because plaintiffs' self-insured plans are church plans, their third party administrators would not be required to provide contraceptive coverage'').

Departments estimate that these interim final rules have no significant effect on the contraceptive coverage of women covered by plans of houses of worship and their integrated auxiliaries, entities using a self-insured church plan, or church dioceses sponsoring self-insured plans.

It is possible that an even greater number of litigating or accommodated plans might have made use of self-insured church plan status under the previous accommodation. Notably, one of the largest nonprofit employers that had filed suit challenging the Mandate had, under these prior rules, shifted most of their employees into self-insured church plans, and the Departments have taken the position that various other employers that filed suit were eligible to assume self-insured church plan status.[66] The Supreme Court's recent decision in *Advocate Health Care Network,* while not involving this Mandate, also clarifies certain circumstances under which religious hospitals may be eligible for self-insured church plan status. See 137 S. Ct. at 1656–57, 1663 (holding that a church plan under ERISA can be a plan not established and maintained by a church, if it is maintained by a principal-purpose organization).

Second, when the Departments previously created the exemption, expanded its application, and provided an accommodation (which, as mentioned, can lift obligations on self-insured church plans for hundreds of nonprofit organizations), we concluded that no significant burden or costs would result at all. (76 FR 46625; 78 FR 39889.) We reached this conclusion despite the impact, just described, whereby the previous rule apparently lead to women not receiving contraceptive coverage through hundreds of nonprofit entities using self-insured church plans. We also reached this conclusion without counting any significant burden or cost to some women covered in the plans of houses of worship or integrated auxiliaries that might want contraceptive coverage. This conclusion was based in part on the assertion, set forth in previous regulations, that employees of houses of worship and integrated auxiliaries likely share their employers' opposition to contraception. Many other religious nonprofit entities, however, both adopt and implement religious principles with similar fervency. For the reasons discussed above, the Departments no longer believe we can distinguish many of the women covered in the plans of religious nonprofit entities from the women covered in the plans of houses of worship and integrated auxiliaries regarding which the Departments assumed share their employers' objection to contraception, nor from women covered in the plans of religious entities using self-insured church plans regarding which we chose not to calculate any anticipated effect even though we conceded we were not requiring their third party administrators to provide contraceptive coverage. In the estimates and assumptions below, we include the potential effect of these interim rules on women covered by such entities, in order to capture all of the anticipated effects of these rules.

Third, these interim final rules extend the exemption to for-profit entities. Among the for-profit employers that filed suit challenging the Mandate, the one with the most employees was *Hobby Lobby.*[67] As noted above, and like some similar entities, the plaintiffs in *Hobby Lobby* were willing to provide coverage with no cost sharing of various contraceptive services: 14 of 18 FDA-approved women's contraceptive and sterilization methods.[68] (134 S. Ct. at 2766.) The effect of expanding the exemption to for-profit entities is therefore mitigated to the extent many of the persons covered by such entities' plans may receive coverage for at least some contraceptive services. No publicly traded for-profit entities have filed lawsuits challenging the Mandate. The Departments agree with the Supreme Court's expectation in this regard: ''it seems unlikely that the sort of corporate giants to which HHS refers will often assert RFRA claims. HHS has not pointed to any example of a publicly traded corporation asserting RFRA rights, and numerous practical restraints would likely prevent that from occurring. For example, the idea that unrelated shareholders—including institutional investors with their own set of stakeholders—would agree to run a corporation under the same religious beliefs seems improbable''. *Hobby Lobby,* 134 S. Ct. at 2774. Therefore, although publicly traded entities could make use of exempt status under these interim final rules, the Departments do not expect that very many will do so, as compared to the 87 religious closely held for-profit entities that brought litigation challenging the Mandate (some of which might be content with the accommodation).

Fourth, the Departments have a limited amount of information about entities that have made use of the accommodation process as set forth in the previous rules. HHS previously estimated that 209 entities would make use of the accommodation process. That estimate was based on HHS's observation in its August 2014 interim final rules and July 2015 final regulations that there were 122 eligible entities that had filed litigation challenging the accommodation process, and 87 closely held for-profit entities that had filed suit challenging the Mandate in general. (79 FR 51096; 80 FR 41336). The Departments acknowledged that entities that had not litigated might make use of the accommodation, but we stated we did not have better data to estimate how many might use the accommodation overall.

After issuing those rules, the Departments have not received complete data on the number of entities actually using the accommodation, because the accommodation does not require many accommodated entities to submit information to us. Our limited records indicate that approximately 63 entities have affirmatively submitted notices to HHS to use the accommodation. This includes some fully insured and some self-insured plans, but it does not include entities that may have used the accommodation by submitting an EBSA form 700 self-certification directly to their issuer or third party administrator. We have deemed some other entities as being subject to the accommodation through their litigation filings, but that might not have led to contraceptive coverage being

[66] See *https://www.franciscanhealth.org/sites/default/files/2015%20employee%20benefit%20booklet.pdf.*; see, for example, *Roman Catholic Archdiocese of N.Y.* v. *Sebelius,* 987 F. Supp. 2d 232, 242 (E.D.N.Y. 2013).

[67] Verified Complaint ¶ 34, *Hobby Lobby Stores, Inc., et al.* v. *Sebelius,* No. 5:12–cv–01000–HE (Sept. 12, 2012 W.D. Okla.) (13,240 employees).

[68] By reference to the FDA Birth Control Guide's list of 18 birth control methods for women and 2 for men, *https://www.fda.gov/downloads/forconsumers/byaudience/forwomen/freepublications/ucm517406.pdf*, Hobby Lobby and entities with similar beliefs were not willing to cover: IUD copper; IUD with progestin; emergency contraceptive (Levonorgestrel); and emergency contraceptive (Ulipristal Acetate). See 134 S. Ct. at 2765–66. Hobby Lobby was willing to cover: Sterilization surgery for women; sterilization implant for women; implantable rod; shot/injection; oral contraceptives (''the Pill''—combined pill); oral contraceptives (''the Pill''—extended/continuous use/combined pill); oral contraceptives (''the Mini Pill''—progestin only); patch; vaginal contraceptive ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; female condom; spermicide alone. *Id.* Among women using these 18 female contraceptive methods, 85 percent use the 14 methods that Hobby Lobby and entities with similar beliefs were willing to cover (22,446,000 out of 26,436,000), and ''[t]he pill and female sterilization have been the two most commonly used methods since 1982.'' See Guttmacher Institute, ''Contraceptive Use in the United States'' (Sept. 2016), available at *https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states.*

provided to persons covered in some of those plans, either because they are exempt as houses of worship or integrated auxiliaries, they are in self-insured church plans, or we were not aware of their issuers or third party administrators so as to send them letters obligating them to provide such coverage. Our records also indicate that 60 plans used the contraceptive user fees adjustments in the 2015 plan year, the last year for which we have data. This includes only self-insured plans, and it includes some plans that self-certified through submitting notices and other plans that, presumably, self-certified through the EBSA form 700.

These sets of data are not inconsistent with our previous estimate that 209 entities would use the accommodation, but they indicate that some non-litigating entities used the accommodation, and some litigating entities did not, possibly amounting to a similar number. For this reason, and because we do not have more complete data available, we believe the previous estimate of 209 accommodated entities is still the best estimate available for how many entities have used the accommodation under the previous rule. This assumes that the number of litigating entities that did not use the accommodation is approximately the same as the number of non-litigating entities that did use it.

In considering how many entities will use the voluntary accommodation moving forward—and how many will use the expanded exemption—we also do not have specific data. We expect the 122 nonprofit entities that specifically challenged the accommodation in court to use the expanded exemption. But, as noted above, we believe a significant number of them are not presently participating in the accommodation, and that some nonprofit entities in self-insured church plans are not providing contraceptive coverage through their third party administrators even if they are using the accommodation. Among the 87 for-profit entities that filed suit challenging the Mandate in general, few if any filed suit challenging the accommodation. We do not know how many of those entities are using the accommodation, how many may be complying with the Mandate fully, how many may be relying on court injunctions to do neither, or how many will use the expanded exemption moving forward. Among entities that never litigated but used the accommodation, we expect many but not all of them to continue using the accommodation, and we do not have data to estimate how many such entities there are or how many will choose either option.

Overall, therefore, without sufficient data to estimate what the estimated 209 previously accommodated entities will do under these interim final rules, we assume that just over half of them will use the expanded exemption, and just under half will continue their accommodated status under the voluntary process set forth in these rules. Specifically, we assume that 109 previously accommodated entities will make use of their exempt status, and 100 will continue using the accommodation. This estimate is based in part on our view that most litigating nonprofit entities would prefer the exemption to the accommodation, but that many of either have not been using the accommodation or, if they have been using it, it is not providing contraceptive coverage for women in their plans where they participate in self-insured church plans. This estimate is also consistent with our lack of knowledge of how many for-profit entities were using the accommodation and will choose the exemption or the accommodation, given that many of them did not bring legal challenges against the accommodation after *Hobby Lobby.* This estimate is further consistent with our view, explained in more detail below, that some entities that are using the accommodation and did not bring litigation will use the exemption, but many accommodated, non-litigating entities—including the ones with the largest relative workforces among accommodated entities—will continue using the accommodation. The Departments recognize that we do not have better data to estimate the effects of these interim final rules on such entities.

In addition to these factors, we recognize that the expanded exemption and accommodation are newly available to religious for-profit entities that are not closely held and some other plan sponsors. As explained above, the Departments believe religious for-profit entities that are not closely held may exist, or may wish to come into being. HHS does not anticipate that there will be significant number of such entities, and among those, we believe that very few if any will use the accommodation. All of the for-profit entities that have challenged the Mandate have been religious closely held entities.

It is also possible that religious nonprofit or closely held for-profit entities that were already eligible for the accommodation but did not previously use it will opt into it moving forward, but because they could have done so under the previous rules, their opting into the accommodation is not caused by these rules.

Without any data to estimate how many of any entities newly eligible for and interested in using the accommodation might exist, HHS assumes for the purposes of estimating the anticipated effect of these rules that less than 10 entities (9) will do so. Therefore, we estimate that 109 entities will use the voluntary accommodation moving forward, 100 of which were already using the previous accommodation, and that 109 entities that have been using the previous accommodation will use the expanded exemption instead.

Fifth, in attempting to estimate the anticipated effect of these interim final rules on women receiving contraceptive coverage, the Departments have limited information about the entities that have filed suit challenging the Mandate. Approximately 209 entities have brought suit challenging the Mandate over more than 5 years. They have included a broad range of nonprofit entities and closely held for-profit entities. We discuss a number of potentially relevant points:

First, the Departments do not believe that out-of-pocket litigation costs have been a significant barrier to entities choosing to file suit. Based on the Departments' knowledge of these cases through public sources and litigation, nearly all the entities were represented pro bono and were subject to little or no discovery during the cases, and multiple public interest law firms publicly provided legal services for entities willing to challenge the Mandate.[69] (It is noteworthy, however, that such pro bono arrangements and minimization of discovery do not eliminate 100 percent of the time costs of participating in litigation or, as discussed in more detail below, the potential for negative

[69] See, for example, Catholic Diocese of Pittsburgh, ''Award-winning attorney 'humbled' by recognition,'' *Pittsburgh Catholic* (''Jones Day is doing the cases 'pro bono,' or voluntarily and without payment.'') (quoting Paul M. Pohl, Partner, Jones Day), available at *http://diopitt.org/pittsburgh-catholic/award-winning-attorney-humbled-recognition*; ''Little Sisters Fight for Religious Freedom,'' *National Review* (Oct. 2, 2013) (''the Becket Fund for Religious Liberty is representing us pro bono, as they do all their clients.'') (quoting Sister Constance Veit, L.S.P., communications director for the Little Sisters of the Poor), available at *http://www.nationalreview.com/article/360103/little-sisters-fight-religious-freedom-interview*; Suzanne Cassidy, ''Meet the major legal players in the Conestoga Wood Specialties Supreme Court case,'' *LancasterOnline* (Mar. 25, 2014) (''Cortman and the other lawyers arguing on behalf of Conestoga Wood Specialties and Hobby Lobby are offering their services pro bono.''), available at *http://lancasteronline.com/news/local/meet-the-major-legal-players-in-the-conestoga-wood-specialties/article_302bc8e2-b379-11e3-b669-001a4bcf6878.html.*

publicity. Both concerns could have dissuaded participation in lawsuits, and the potential for negative publicity may also dissuade participation in the expanded exemptions.)

Second, prior to the Affordable Care Act, the vast majority of entities already covered contraception, albeit not always without cost-sharing The Departments do not have data to indicate why entities that did not cover contraception prior to the Affordable Care Act chose not to cover it. As noted above, however, the Departments have maintained that compliance with the contraceptive Mandate is cost-neutral to issuers, which indicates that no significant financial incentive exists to omit contraceptive coverage. As indicated by the report by HHS ASPE discussed above, we have assumed that millions of women received preventive services after the Mandate went into effect because nearly all entities complied with the Guidelines. We are not aware of expressions from most of those entities indicating that they would have sincerely held religious objections to complying with the Mandate, and therefore that they would make use of the expanded exemption provided here.

Third, omitting contraceptive coverage has subjected some entities to serious public criticism and in some cases organized boycotts or opposition campaigns that have been reported in various media and online outlets regarding entities that have filed suit. The Departments expect that even if some entities might not receive such criticism, many entities will be reluctant to use the expanded exemption unless they are committed to their views to a significant degree.

Overall, the Departments do not know how many entities will use the expanded exemption. We expect that some non-litigating entities will use it, but given the aforementioned considerations, we believe it might not be very many more. Moreover, many litigating entities are already exempt or are not providing contraceptive coverage to women in their plans due to their participating in self-insured church plans, so the effect of the expanded exemption among litigating entities is significantly lower than it would be if all the women in their plans were already receiving the coverage.

To calculate the anticipated effects of this rule on contraceptive coverage among women covered by plans provided by litigating entities, we start by examining court documents and other public sources.[70] These sources provide some information, albeit incomplete, about how many people are employed by these entities. As noted above, however, contraceptive coverage among the employees of many litigating entities will not be affected by these rules because some litigating entities were exempt under the prior rule, while others were or appeared to be in self-insured church plans so that women covered in their plans were already not receiving contraceptive coverage.

Among litigating entities that were neither exempt nor likely using self-insured church plans, our best estimate based on court documents and public sources is that such entities employed approximately 65,000 persons, male and female.[71] The average number of workers at firms offering health benefits that are actually covered by those benefits is 62 percent.[72] This amounts to approximately 34,000 employees covered under those plans. DOL estimates that for each employee policyholder, there is approximately one dependent.[73] This amounts to approximately 68,000 covered persons. Census data indicate that women of childbearing age—that is, women aged 15–44—compose 20.2 percent of the general population.[74] In addition, approximately 44.3 percent of women of childbearing age use women's contraceptive methods covered by the Guidelines.[75] Therefore, we estimate that approximately 7,221 women of childbearing age that use contraception covered by the Guidelines are covered by employer sponsored plans of entities that have filed lawsuits challenging the Mandate, where those plans are neither exempt under the prior rule nor are self-insured church plans.

We also estimate that for the educational institutions objecting to the Mandate as applied to student coverage that they arranged, where the entities were neither exempt under the prior rule nor were their student plans self-insured, such student plans likely covered approximately 3,300 students. On average, we expect that approximately half of those students (1,650) are female. For the purposes of this estimate, we also assume that female policyholders covered by plans arranged by institutions of higher education are women of childbearing age. We expect that they would have less than the average number of dependents per policyholder than exists in standard plans, but for the purposes of providing an upper bound to this estimate, we assume that they would have an average of one dependent per policyholder, thus bringing the number of policyholders and dependents back up to 3,300. Many of those dependents are likely not to be women of childbearing age, but in order to provide an upper bound to this estimate, we assume they are. Therefore, for the purposes of this estimate, we assume that the effect of these expanded exemptions on student plans of litigating entities includes 3,300 women. Assuming that 44.3 perecent of such women use contraception covered by the Guidelines,[76] we estimate that

[70] Where complaints, affidavits, or other documents filed in court did not indicate the number of employees that work for an entity, and that entity was not apparently exempt as a house of worship or integrated auxiliary, and it was not using the kind of plan that we have stated in litigation qualifies for self-insured church plan status (see, for example, *Roman Catholic Archdiocese of N.Y.* v. *Sebelius,* 987 F. Supp. 2d 232, 242 (E.D.N.Y. 2013)), we examined employment data contained in some IRS form W–3's that are publicly available online for certain nonprofit groups, and looked at other Web sites discussing the number of people employed at certain entities.

[71] In a small number of lawsuits, named plaintiffs include organizations claiming to have members that seek an exemption. We have very little information about the number, size, and types of entities those members. Based on limited information from those cases, however, their membership appears to consist mainly, although not entirely, of houses of worship, integrated auxiliaries, and participants in self-insured plans of churches. As explained above, the contraceptive coverage of women covered by such plans is not likely to be affected by the expanded exemption in these rules. However, to account for plans subject to contraceptive coverage obligations among those members we have added 10,000 to our estimate of the number of persons among litigants that may be impacted by these rules.

[72] See Kaiser Family Foundation and Health Research and Educational Trust, ''Employer Health Benefits: 2017 Annual Survey'' at 57, available at *http://files.kff.org/attachment/Report-Employer-Health-Benefits-Annual-Survey-2017.*

[73] ''Health Insurance Coverage Bulletin'' Table 4, page 21. Using March 2015 Annual Social and Economic Supplement to the Current Population Survey. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf.*

[74] United States Census Bureau, ''Age and Sex Composition: 2010'' (May 2011), available at *https://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.* The Guidelines' requirement of contraceptive coverage only applies ''for all women with reproductive capacity.'' *https://www.hrsa.gov/womensguidelines/*; also, see 80 FR 40318. In addition, studies commonly consider the 15–44 age range to assess contraceptive use by women of childbearing age. See, for example, Guttmacher Institute, ''Contraceptive Use in the United States'' (Sept. 2016), available at *https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states.*

[75] See *https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states* (reporting that of 60,877,000 women aged 15–44, 26,945,000 use women's contraceptive methods covered by the Guidelines).

[76] It would appear that a smaller percentage of college-aged women use contraception—and use more expensive methods such as long acting methods or sterilization—than among other women of childbearing age. *See* NCHS Data Brief, ''Current Contraceptive Status Among Women Aged 15–44: United States, 2011–2013'' (Dec. 2014), available at

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1,462 of those women would be affected by these rules.

Together, this leads the Departments to estimate that approximately 8,700 women of childbearing age may have their contraception costs affected by plans of litigating entities using these expanded exemptions. As noted above, the Departments do not have data indicating how many of those women agree with their employers' or educational institutions' opposition to contraception (so that fewer of them than the national average might actually use contraception). Nor do we know how many would have alternative contraceptive access from a parent's or spouse's plan, or from Federal, State, or local governmental programs, nor how many of those women would fall in the category of being most at risk of unintended pregnancy, nor how many of those entities would provide some contraception in their plans while only objecting to certain contraceptives.

Sixth, in a brief filed in the *Zubik* litigation, the Departments stated that ''in 2014, [HHS] provided user-fee reductions to compensate TPAs for making contraceptive coverage available to more than 600,000 employees and beneficiaries,'' and that ''[t]hat figure includes both men and women covered under the relevant plans.'' [77] HHS has reviewed the information giving rise to that estimate, and has received updated information for 2015. In 2014, 612,000 persons were covered by plans claiming contraceptive user fees adjustments, and in 2015, 576,000 persons were covered by such plans. These numbers include all persons in such plans, not just women of childbearing age.

HHS's information indicates that religious nonprofit hospitals or health systems sponsored a significant minority of the accommodated self-insured plans that were using contraceptive user fees adjustments, yet those plans covered more than 80 percent of the persons covered in all plans using contraceptive user fees adjustments. Some of those plans cover nearly 100,000 persons each, and several others cover approximately 40,000 persons each. In other words, these plans were proportionately much larger than the plans provided by other entities using the contraceptive user fees adjustments.

There are two reasons to believe that a significant fraction of the persons covered by previously accommodated plans provided by religious nonprofit hospitals or health systems may not be affected by the expanded exemption. A broad range of religious hospitals or health systems have publicly indicated that they do not conscientiously oppose participating in the accommodation.[78] Of course, some of these religious hospitals or health systems may opt for the expanded exemption under these interim final rules, but others might not. In addition, among plans of religious nonprofit hospitals or health systems, some have indicated that they might be eligible for status as a self-insured church plan.[79] As discussed above, some litigants challenging the Mandate have appeared, after their complaints were filed, to make use of self-insured church plan status.[80] (The Departments take no view on the status of these particular plans under ERISA, but simply make this observation for the purpose of seeking to estimate the impact of these interim final rules.) Nevertheless, overall it seems likely that many of the remaining religious hospital or health systems plans previously using the accommodation will continue to opt into the voluntary accommodation under these interim final rules, under which their employees will still receive contraceptive coverage. To the extent that plans of religious hospitals or health systems are able to make use of self-insured church plan status, the previous accommodation rule would already have allowed them to relieve themselves and their third party administrators of obligations to provide contraceptive coverage or payments. Therefore, in such situations these interim final rules would not have an anticipated effect on the contraceptive coverage of women in those plans.

Considering all these data points and limitations, the Departments offer the following estimate of the number of women who will be impacted by the expanded exemption in these interim final rules. The Departments begin with the 8,700 women of childbearing age that use contraception who we estimate will be affected by use of the expanded exemption among litigating entities. In addition to that number, we calculate the following number of women affected by accommodated entities using the expanded exemption. As noted above, approximately 576,000 plan participants and beneficiaries were covered by self-insured plans that received contraceptive user fee adjustments in 2014. Although additional self-insured entities may have participated in the accommodation without making use of contraceptive user fees adjustments, we do not know what number of entities did so. We consider it likely that self-insured entities with relatively larger numbers of covered persons had sufficient financial incentive to make use of the contraceptive user fees adjustments. Therefore, without better data available, we assume that the number of persons covered by self-insured plans using contraceptive user fees adjustments approximates the number of persons covered by all self-insured plans using the accommodation.

An additional but unknown number of persons were likely covered in fully insured plans using the accommodation. The Departments do not have data on how many fully insured plans have been using the accommodation, nor on how many persons were covered by those plans. DOL estimates that, among persons covered by employer sponsored insurance, 56.1 percent are covered by self-insured plans and 43.9 percent are covered by fully insured plans.[81] Therefore, corresponding to the 576,000 persons covered by self-insured plans using user fee adjustments, we estimate an additional 451,000 persons were covered by fully insured plans using the accommodation. This yields an estimate of 1,027,000 covered persons of all ages and sexes in plans using the previous accommodation.

As discussed below, and recognizing the limited data available for our estimates, the Departments estimate that 100 of the 209 entities that were using the accommodation under the prior rule

https://www.cdc.gov/nchs/data/databriefs/db173.pdf.

[77] Brief of Respondents at 18–19 & n.7, *Zubik* v. *Burwell,* No. 14–1418, et al. (U.S. filed Feb. 10, 2016). The actual number is 612,487.

[78] See, for example, *https://www.chausa.org/newsroom/women%27s-preventive-health-services-final-rule* (''HHS has now established an accommodation that will allow our ministries to continue offering health insurance plans for their employees as they have always done. . . . We are pleased that our members now have an accommodation that will not require them to contract, provide, pay or refer for contraceptive coverage. . . . We will work with our members to implement this accommodation.'') In comments submitted in previous rules concerning this Mandate, the Catholic Health Association has stated it ''is the national leadership organization for the Catholic health ministry, consisting of more than 2,000 Catholic health care sponsors, systems, hospitals, long-term care facilities, and related organizations. Our ministry is represented in all 50 states and the District of Columbia.'' Comments on CMS–9968–ANPRM (dated June 15, 2012).

[79] See, for example, Brief of the Catholic Health Association of the United States as Amicus Curiae in Support of Petitioners, *Advocate Health Care Network,* Nos. 16–74, 16–86, 16–258, 2017 WL 371934 at *1 (U.S. filed Jan. 24, 2017) (''CHA members have relied for decades that the 'church plan' exemption contained in'' ERISA.).

[80] See supra note 66.

[81] ''Health Insurance Coverage Bulletin'' Table 3A, page 15. Using March 2015 Annual Social and Economic Supplement to the Current Population Survey. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf.*

will continue to opt into it under these interim final rules. Notably, however, the data concerning accommodated self-insured plans indicates that plans sponsored by religious hospitals and health systems encompass more than 80 percent of the persons covered in such plans. In other words, plans sponsored by such entities have a proportionately larger number of covered persons than do plans sponsored by other accommodated entities, which have smaller numbers of covered persons. As also cited above, many religious hospitals and health systems have indicated that they do not object to the accommodation, and some of those entities might also qualify as self-insured church plans, so that these interim final rules would not impact the contraceptive coverage their employees receive. We do not have specific data on which plans of which sizes will actually continue to opt into the accommodation, nor how many will make use of self-insured church plan status. We assume that the proportions of covered persons in self-insured plans using contraceptive user fees adjustments also apply in fully insured plans, for which we lack representative data. Based on these assumptions and without better data available, we assume that the 100 accommodated entities that will remain in the accommodation will account for 75 percent of all the persons previously covered in accommodated plans. In comparison, we assume the 109 accommodated entities that will make use of the expanded exemption will encompass 25 percent of persons previously covered in accommodated plans.

Applying these percentages to the total number of 1,027,000 persons we estimate are covered in accommodated plans, we estimate that approximately 257,000 persons previously covered in accommodated plans will be covered in the 109 plans that use the expanded exemption, and 770,000 persons will be covered in the estimated 100 plans that continue to use the accommodation. According to the Census data cited above, 20.2 percent of these persons are women of childbearing age, which amounts to approximately 51,900 women of childbearing age in previously accommodated plans that we estimate will use the expanded exemption. As noted above, approximately 44.3 percent of women of childbearing age use women's contraceptive methods covered by the Guidelines, so that we expect approximately 23,000 women that use contraception covered by the Guidelines to be affected by accommodated entities using the expanded exemption.

It is not clear the extent to which this number overlaps with the number estimated above of 8,700 women in plans of litigating entities that may be affected by these rules. Based on our limited information from the litigation and accommodation notices, we expect that the overlap is significant. Nevertheless, in order to estimate the possible effects of these rules, we assume there is no overlap between these two numbers, and therefore that these interim final rules would affect the contraceptive costs of approximately 31,700 women.

Under the assumptions just discussed, the number of women whose contraceptive costs will be impacted by the expanded exemption in these interim final rules is less than 0.1 percent of the 55.6 million women in private plans that HHS ASPE estimated [82] receive preventive services coverage under the Guidelines.

In order to estimate the cost of contraception to women affected by the expanded exemption, the Departments are aware that, under the prior accommodation process, the total user fee adjustment amount for self-insured plans for the 2015 benefit year was $33 million. These adjustments covered the cost of contraceptive coverage provided to women participants and beneficiaries in self-insured plans where the employer objected and made use of the accommodation, and where an authorizing exception under OMB Circular No. A–25R was in effect as the Secretary of the Department of Health and Human Services requests. Nine percent of that amount was attributable to administrative costs and margin, according to the provisions of 45 CFR 156.50(d)(3)(ii). Thus the amount of the adjustments attributable to the cost of contraceptive services was about $30 million. As discussed above, in 2015 that amount corresponded to 576,000 persons covered by such plans. Among those persons, as cited above, approximately 20.2 percent on average were women of childbearing age—that is, approximately 116,000 women. As noted above, approximately 44.3 percent of women of childbearing age use women's contraceptive methods covered by the Guidelines, which includes 51,400 women in those plans. Therefore, entities using contraceptive user fees adjustments received approximately $584 per year per woman of childbearing age that use contraception covered by the Guidelines and are covered in their plans.

As discussed above, the Departments estimate that the expanded exemptions will impact the contraceptive costs of approximately 31,700 women of childbearing age that use contraception covered by the Guidelines. At an average of $584 per year, the financial transfer effects attributable to the interim final rules on those women would be approximately $18.5 million.[83] [84]

To account for uncertainty in the estimate, we conducted a second analysis using an alternative framework, in order to thoroughly consider the possible upper bound economic impact of these interim final rules.

As noted above, the HHS ASPE report estimated that 55.6 million women aged 15 to 64 and covered by private insurance had preventive services coverage under the Affordable Care Act. Approximately 16.2 percent of those women were enrolled in plans on exchanges or were otherwise not covered by employer sponsored insurance, so only 46.6 million women aged 15 to 64 received the coverage through employer sponsored private insurance plans.[85] In addition, some of those private insurance plans were offered by government employers, encompassing approximately 10.5 million of those women aged 15 to 64.[86]

[82] Available at *https://aspe.hhs.gov/pdf-report/affordable-care-act-improving-access-preventive-services-millions-americans*; also, see Abridged Report, available at *https://www.womenspreventivehealth.org/wp-content/uploads/2017/01/WPSI_2016AbridgedReport.pdf.*

[83] As noted above, the Departments have taken the position that providing contraceptive coverage is cost neutral to issuers. (78 FR 39877). At the same time, because of the up-front costs of some contraceptive or sterilization methods, and because some entities did not cover contraception prior to the Affordable Care Act, premiums may be expected to adjust to reflect changes in coverage, thus partially offsetting the transfer experienced by women who use the affected contraceptives. As discussed elsewhere in this analysis, such women may make up approximately 8.9 percent (= 20.2 percent × 44.3 percent) of the covered population, in which case the offset would also be approximately 8.9 percent.

[84] Describing this impact as a transfer reflects an implicit assumption that the same products and services would be used with or without the rule. Such an assumption is somewhat oversimplified because the interim final rules shift cost burden to consumption decision-makers (that is, the women who choose whether or not to use the relevant contraceptives) and thus can be expected to lead to some decrease in use of the affected drugs and devices and a potential increase in pregnancy—thus leading to a decrease and an increase, respectively, in medical expenditures.

[85] Available at *https://aspe.hhs.gov/system/files/pdf/139221/The%20Affordable%20Care%20Act%20is%20Improving%20Access%20to%20Preventive%20Services%20for%20Millions%20of%20Americans.pdf.*

[86] The ASPE study relied on Census data of private health insurance plans, which included plans sponsored by either private or public sector

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The expanded exemption in these interim final rules does not apply to government plan sponsors. Thus we estimate that the number of women aged 15 to 64 covered by private sector employer sponsored insurance who receive preventive services coverage under the Affordable Care Act is approximately 36 million.

Prior to the implementation of the Affordable Care Act, approximately 6 percent of employer survey respondents did not offer contraceptive coverage, with 31 percent of respondents not knowing whether they offered such coverage.[87] The 6 percent may have included approximately 2.16 million of the women aged 15–64 covered by employer sponsored insurance plans in the private sector. According to Census data, 59.9 percent of women aged 15 to 64 are of childbearing age (aged 15 to 44), in this case, 1.3 million. And as noted above, approximately 44.3 percent of women of childbearing age use women's contraceptive methods covered by the Guidelines. Therefore we estimate that 574,000 women of childbearing age that use contraceptives covered by the Guidelines were covered by plans that omitted contraceptive coverage prior to the Affordable Care Act.[88]

It is unknown what motivated those employers to omit contraceptive coverage—whether they did so for conscientious reasons, or for other reasons. Despite our lack of information about their motives, we attempt to make a reasonable estimate of the upper bound of the number of those employers that omitted contraception before the Affordable Care Act and that would make use of these expanded exemptions based on sincerely held religious beliefs.

To begin, we estimate that publicly traded companies would not likely make use of these expanded exemptions. Even though the rule does not preclude publicly traded companies from dropping coverage based on a sincerely held religious belief, it is likely that attempts to object on religious grounds by publicly traded companies would be rare. The Departments take note of the Supreme Court's decision in *Hobby Lobby,* where the Court observed that ''HHS has not pointed to any example of a publicly traded corporation asserting RFRA rights, and numerous practical restraints would likely prevent that from occurring. For example, the idea that unrelated shareholders—including institutional investors with their own set of stakeholders—would agree to run a corporation under the same religious beliefs seems improbable''. 134 S. Ct. at 2774. The Departments are aware of several Federal health care conscience laws[89] that in some cases have existed for decades and that protect companies, including publicly traded companies, from discrimination if, for example, they decline to facilitate abortion, but we are not aware of examples where publicly traded companies have made use of these exemptions. Thus, while we consider it important to include publicly traded companies in the scope of these expanded exemptions for reasons similar to those used by the Congress in RFRA and some health care conscience laws, in estimating the anticipated effects of the expanded exemptions we agree with the Supreme Court that it is improbable any will do so.

This assumption is significant because 31.3 percent of employees in the private sector work for publicly traded companies.[90] That means that only approximately 394,000 women aged 15 to 44 that use contraceptives covered by the Guidelines were covered by plans of non-publicly traded companies that did not provide contraceptive coverage pre-Affordable Care Act.

Moreover, these interim final rules build on existing rules that already exempt houses of worship and integrated auxiliaries and, as explained above, effectively remove obligations to provide contraceptive coverage within objecting self-insured church plans. These rules will therefore not effect transfers to women in the plans of such employers. In attempting to estimate the number of such employers, we consider the following information. Many Catholic dioceses have litigated or filed public comments opposing the Mandate, representing to the Departments and to courts around the country that official Catholic Church teaching opposes contraception. There are 17,651 Catholic parishes in the

employers. See Table 2, notes 2 & 3 (explaining the scope of private plans and government plans for purposes of Table 2), available at *https://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-250.pdf.*

According to data tables from the Medical Expenditure Panel Survey (MEPS) of the Agency for Healthcare Research and Quality of HHS (*https://meps.ahrq.gov/mepsweb/*), State and local governments employ 19,297,960 persons; 99.2 percent of those employers offer health insurance; and 67.4 percent of employees that work at such entities where insurance is offered are enrolled in those plans, amounting to 12.9 million persons enrolled. DOL estimates that in the public sector, for each policyholder there is an average of slightly less than one dependent. ''Health Insurance Coverage Bulletin'' Table 4, page 21. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf.* Therefore, State and local government employer plans cover approximately 24.8 million persons of all ages. Census data indicates that on average, 12 percent of persons covered by private insurance plans are aged 65 and older. Using these numbers, we estimate that State and local government employer plans cover approximately 21.9 million persons under age 65.

The Federal Government has approximately 8.2 million persons covered in its employee health plans. According to information we received from the Office of Personnel Management, this includes 2.1 million employees having 3.2 million dependents, and 1.9 million retirees (annuitants) having 1 million dependents. We do not have information about the ages of these policyholders and dependents, but for the purposes of this estimate we assume the annuitants and their dependents are aged 65 or older and the employees and their dependents are under age 65, so that the Federal Government's employee health plans cover 5.3 million persons under age 65.

Thus, overall we estimate there are 27.2 million persons under age 65 enrolled in private health insurance sponsored by government employers. Of those, 38.3 percent are women aged 15–64, that is, 10.5 million.

[87] Kaiser Family Foundation & Health Research & Educational Trust, ''Employer Health Benefits, 2010 Annual Survey'' at 196, available at *https://kaiserfamilyfoundation.files.wordpress.com/2013/04/8085.pdf.*

[88] Some of the 31 percent of survey respondents that did not know about contraceptive coverage may not have offered such coverage. If it were possible to account for this non-coverage, the estimate of potentially affected covered women could increase. On the other hand, these employers' lack of knowledge about contraceptive coverage suggests that they lacked sincerely held religious beliefs specifically objecting to such coverage—beliefs without which they would not qualify for the expanded exemptions offered by these rules. In that case, omission of such employers and covered women from this estimation approach would be appropriate. Correspondingly, the 6 percent of employers that had direct knowledge about the absence of coverage may be more likely to have omitted such coverage on the basis of religious beliefs than were the 31 percent of survey respondents who did not know whether the coverage was offered. Yet an entity's mere knowledge about its coverage status does not itself reflect its motive for omitting coverage. In responding to the survey, the entity may have simply examined its plan document to determine whether or not contraceptive coverage was offered. As will be relevant in a later portion of the analysis, we have no data indicating what portion of the entities that omitted contraceptive coverage pre-Affordable Care Act did so on the basis of sincerely held religious beliefs, as opposed to doing so for other reasons that would not qualify them for the expanded exemption offered in these interim final rules.

[89] For example, 42 U.S.C. 300a–7(b), 42 U.S.C. 238n, and Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d), Public Law 115–31.

[90] John Asker, et al., ''Corporate Investment and Stock Market Listing: A Puzzle?'' 28 *Review of Financial Studies* Issue 2, at 342–390 (Oct. 7, 2014), available at *https://doi.org/10.1093/rfs/hhu077.* This is true even though there are only about 4,300 publicly traded companies in the U.S. See Rayhanul Ibrahim, ''The number of publicly-traded US companies is down 46% in the past two decades,'' *Yahoo! Finance* (Aug. 8, 2016), available at *https://finance.yahoo.com/news/jp-startup-public-companies-fewer-000000709.html.*

United States,[91] 197 Catholic dioceses,[92] 5,224 Catholic elementary schools, and 1,205 Catholic secondary schools.[93] Not all Catholic schools are integrated auxiliaries of Catholic churches, but there are other Catholic entities that are integrated auxiliaries that are not schools, so we use the number of schools to estimate of the number of integrated auxiliaries. Among self-insured church plans that oppose the Mandate, the Department has been sued by two—Guidestone and Christian Brothers. Guidestone is a plan organized by the Southern Baptist convention. It covers 38,000 employers, some of which are exempt as churches or integrated auxiliaries, and some of which are not.[94] Christian Brothers is a plan that covers Catholic organizations. It covers Catholic churches and integrated auxiliaries, which are estimated above, but also it has said in litigation that it also covers about 500 additional entities that are not exempt as churches. In total, therefore, we estimate that approximately 62,000 employers among houses of worship, integrated auxiliaries, and church plans, were exempt or relieved of contraceptive coverage obligations under the previous rules. We do not know how many persons are covered in the plans of those employers. Guidestone reports that among its 38,000 employers, its plan covers approximately 220,000 persons, and its employers include ''churches, mission-sending agencies, hospitals, educational institutions and other related ministries.'' Using that ratio, we estimate that the 62,000 church and church plan employers among Guidestone, Christian Brothers, and Catholic churches would include 359,000 persons. Among them, as referenced above, 72,500 would be of childbearing age, and 32,100 would use contraceptives covered by the Guidelines. Therefore, we estimate that the private, non-publicly traded employers that did not cover contraception pre-Affordable Care Act, and that were not exempt by the previous rules nor were participants in self-insured church plans that oppose contraceptive coverage, covered 362,100 women aged 15 to 44 that use contraceptives covered by the Guidelines. As noted above, we estimate an average annual expenditure on contraceptive products and services of $584 per user. That would amount to $211.5 million in potential transfer impact among entities that did not cover contraception pre- Affordable Care Act for any reason.

We do not have data indicating how many of the entities that omitted coverage of contraception pre-Affordable Care Act did so on the basis of sincerely held religious beliefs that might qualify them for exempt status under these interim final rules, as opposed to having done so for other reasons. Besides the entities that filed lawsuits or submitted public comments concerning previous rules on this matter, we are not aware of entities that omitted contraception pre-Affordable Care Act and then opposed the contraceptive coverage requirement after it was imposed by the Guidelines. For the following reasons, however, we believe that a reasonable estimate is that no more than approximately one third of the persons covered by relevant entities—that is, no more than approximately 120,000 affected women—would likely be subject to potential transfer impacts under the expanded religious exemptions offered in these interim final rules. Consequently, as explained below, we believe that the potential impact of these interim final rules falls substantially below the $100 million threshold for economically significant and major rules.

First, as mentioned, we are not aware of information that would lead us to estimate that all or most entities that omitted coverage of contraception pre-Affordable Care Act did so on the basis of sincerely held conscientious objections in general or religious beliefs specifically, as opposed to having done so for other reasons. Moreover, as suggested by the Guidestone data mentioned previously, employers with conscientious objections may tend to have relatively few employees. Also, avoiding negative publicity, the difficulty of taking away a fringe benefit that employees have become accustomed to having, and avoiding the administrative cost of renegotiating insurance contracts, all provide reasons for some employers not to return to pre-Affordable Care Act lack of contraceptive coverage. Additionally, as discussed above, many employers with objections to contraception, including several of the largest litigants, only object to some contraceptives and cover as many as 14 of 18 of the contraceptive methods included in the Guidelines. This will reduce, and potentially eliminate, the contraceptive cost transfer for women covered in their plans.[95] Furthermore, among nonprofit entities that object to the Mandate, it is possible that a greater share of their employees oppose contraception than among the general population, which should lead to a reduction in the estimate of how many women in those plans actually use contraception.

In addition, not all sincerely held conscientious objections to contraceptive coverage are likely to be held by persons with religious beliefs as distinct from persons with sincerely held non-religious moral convictions, whose objections would not be encompassed by these interim final rules.[96] We do not have data to indicate, among entities that did not cover contraception pre-Affordable Care Act based on sincerely held conscientious objections as opposed to other reasons, which ones did so based on religious beliefs and which ones did so instead based on non-religious moral convictions. Among the general public, polls vary about religious beliefs but one prominent poll shows that 89 percent of Americans say they believe in God, while 11 percent say they do not or are agnostic.[97] Therefore, we estimate that for every ten entities that omitted contraception pre-Affordable Care Act based on sincerely held conscientious objections as opposed to other reasons, one did so based on sincerely held non-religious moral convictions, and therefore are not affected by the expanded exemption provided by these interim final rules for religious beliefs.

Based on our estimate of an average annual expenditure on contraceptive products and services of $584 per user,

[91] Roman Catholic Diocese of Reno, ''Diocese of Reno Directory: 2016–2017,'' available at *http://www.renodiocese.org/documents/2016/9/2016%202017%20directory.pdf.*

[92] Wikipedia, ''List of Catholic dioceses in the United States,'' available at *https://en.wikipedia.org/wiki/List_of_Catholic_dioceses_in_the_United_States.*

[93] National Catholic Educational Association, ''Catholic School Data,'' available at *http://www.ncea.org/NCEA/Proclaim/Catholic_School_Data/Catholic_School_Data.aspx.*

[94] Guidestone Financial Resources, ''Who We Serve,'' available at *https://www.guidestone.org/AboutUs/WhoWeServe.*

[95] On the other hand, a key input in the approach that generated the one third threshold estimate was a survey indicating that six percent of employers did not provide contraceptive coverage pre-Affordable Care Act. Employers that covered some contraceptives pre-Affordable Care Act may have answered ''yes'' or ''don't know'' to the survey. In such cases, the potential transfer estimate has a tendency toward underestimation because the rule's effects on such women—causing their contraceptive coverage to be reduced from all 18 methods to some smaller subset—have been omitted from the calculation.

[96] Such objections may be encompassed by companion interim final rules published elsewhere in this **Federal Register**. Those rules, however, as an interim final matter, are more narrow in scope than these rules. For example, in providing expanded exemptions for plan sponsors, they do not encompass companies with certain publicly traded ownership interests.

[97] Gallup, ''Most Americans Still Believe in God'' (June 14–23, 2016), available at *http://www.gallup.com/poll/193271/americans-believe-god.aspx.*

the effect of the expanded exemptions on 120,000 women would give rise to approximately $70.1 million in potential transfer impact. This falls substantially below the $100 million threshold for economically significant and major rules. In addition, as noted above, premiums may be expected to adjust to reflect changes in coverage, thus partially offsetting the transfer experienced by women who use the affected contraceptives. As discussed elsewhere in this analysis, such women may make up approximately 8.9 percent (= 20.2 percent × 44.3 percent) of the covered population, in which case the offset would also be approximately 8.9 percent, yielding a potential transfer of $63.8 million.

We request comment on all aspects of the preceding regulatory impact analysis, as well as on how to attribute impacts to this interim final rule and the companion interim final rule concerning exemptions provided based on sincerely held (non-religious) moral convictions published elsewhere in this **Federal Register**.

B. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury, certain Internal Revenue Service (IRS) regulations, including this one, are exempt from the requirements in Executive Order 12866, as supplemented by Executive Order 13563. The Departments anticipate that there will be more entities reluctantly using the existing accommodation that will choose to operate under the newly expanded exemption, than entities that are not currently eligible to use the accommodation that will opt into it. The effect of this rule will therefore be that fewer overall adjustments are made to the Federally facilitated Exchange user fees for entities using the accommodation process, as long as the Secretary of the Department of Health and Human Services requests and an authorizing exception under OMB Circular No. A–25R is in effect, than would have occurred under the previous rule if this rule were not finalized. Therefore, a regulatory assessment is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the APA (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Under Section 553(b) of the APA, a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. The interim final rules are exempt from the APA, both because the PHS Act, ERISA, and the Code contain specific provisions under which the Secretaries may adopt regulations by interim final rule and because the Departments have made a good cause finding that a general notice of proposed rulemaking is not necessary earlier in this preamble. Therefore, the RFA does not apply and the Departments are not required to either certify that the regulations or this amendment would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

Nevertheless, the Departments carefully considered the likely impact of the rule on small entities in connection with their assessment under Executive Order 12866. The Departments do not expect that these interim final rules will have a significant economic effect on a substantial number of small entities, because they will not result in any additional costs to affected entities, and in many cases will relieve burdens and costs from such entities. By exempting from the Mandate small businesses and nonprofit organizations with religious objections to some (or all) contraceptives and/or sterilization, the Departments have reduced regulatory burden on such small entities. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

D. Paperwork Reduction Act—Department of Health and Human Services

Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information. Interested persons are invited to send comments regarding our burden estimates 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.

However, we are requesting an emergency review of the information collection referenced later in this section. In compliance with the requirement of section 3506(c)(2)(A) of the PRA, we have submitted the following for emergency review to the Office of Management and Budget (OMB). We are requesting an emergency review and approval under both 5 CFR 1320.13(a)(2)(i) and (iii) of the implementing regulations of the PRA in order to implement provisions regarding self-certification or notices to HHS from eligible organizations (§ 147.131(c)(3)), notice of availability of separate payments for contraceptive services (§ 147.131(f)), and notice of revocation of accommodation (§ 147.131(c)(4)). In accordance with 5 CFR 1320.13(a)(2)(i), we believe public harm is reasonably likely to ensue if the normal clearance procedures are followed. The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information. Similarly, in accordance with 5 CFR 1320.13(a)(2)(iii), we believe the use of normal clearance procedures is reasonably likely to cause a statutory or court ordered deadline to be missed. Many cases have been on remand for over a year from the Supreme Court, asking the Departments and the parties to resolve this matter. These interim final rules extend exemptions to entities, which involves no collection of information and which the Departments have statutory authority to do by the use of interim final rules. If the information collection involved in the amended accommodation process is not approved on an emergency basis, newly exempt entities that wish to opt into the amended accommodation process might not be able to do so until normal clearance procedures are completed.

A description of the information collection provisions implicated in these interim final rules is given in the following section with an estimate of the annual burden. Average labor costs (including 100 percent fringe benefits) used to estimate the costs are calculated using data available from the Bureau of Labor Statistics.[98]

a. ICRs Regarding Self-Certification or Notices to HHS (§ 147.131(c)(3))

Each organization seeking to be treated as an eligible organization that wishes to use the optional accommodation process offered under

[98] May 2016 National Occupational Employment and Wage Estimates United States found at *https://www.bls.gov/oes/current/oes_nat.htm.*

these interim final rules must either use the EBSA Form 700 method of self-certification or provide notice to HHS of its religious objection to coverage of all or a subset of contraceptive services. Specifically, these interim final rules continue to allow eligible organizations to notify an issuer or third party administrator using EBSA Form 700, or to notify HHS, of their religious objection to coverage of all or a subset of contraceptive services, as set forth in the July 2015 final regulations. The burden related to the notice to HHS is currently approved under OMB Control Number 0938–1248 and the burden related to the self-certification (EBSA Form 700) is currently approved under OMB control number 0938–1292.

Notably, however, entities that are participating in the previous accommodation process, where a self-certification or notice has already been submitted, and where the entities choose to continue their accommodated status under these interim final rules, generally do not need to file a new self-certification or notice (unless they change their issuer or third party administrator). As explained above, HHS assumes that, among the 209 entities we estimated are using the previous accommodation, 109 will use the expanded exemption and 100 will continue under the voluntary accommodation. Those 100 entities will not need to file additional self-certifications or notices. HHS also assumes that an additional 9 entities that were not using the previous accommodation will opt into it. Those entities will be subject to the self-certification or notice requirement.

In order to estimate the cost for an entity that chooses to opt into the accommodation process, HHS assumes, as it did in its August 2014 interim final rules, that clerical staff for each eligible organization will gather and enter the necessary information and send the self-certification to the issuer or third party administrator as appropriate, or send the notice to HHS.[99] HHS assumes that a compensation and benefits manager and inside legal counsel will review the self-certification or notice to HHS and a senior executive would execute it. HHS estimates that an eligible organization would spend approximately 50 minutes (30 minutes of clerical labor at a cost of $55.68 per hour,[100] 10 minutes for a compensation and benefits manager at a cost of $122.02 per hour,[101] 5 minutes for legal counsel at a cost of $134.50 per hour,[102] and 5 minutes by a senior executive at a cost of $186.88 per hour[103]) preparing and sending the self-certification or notice to HHS and filing it to meet the recordkeeping requirement. Therefore, the total annual burden for preparing and providing the information in the self-certification or notice to HHS will require approximately 50 minutes for each eligible organization with an equivalent cost burden of approximately $74.96 for a total hour burden of approximately 7.5 hours with an equivalent cost of approximately $675 for 9 entities. As DOL and HHS share jurisdiction, they are splitting the hour burden so each will account for approximately 3.75 burden hours with an equivalent cost of approximately $337.

HHS estimates that each self-certification or notice to HHS will require $0.49 in postage and $0.05 in materials cost (paper and ink) and the total postage and materials cost for each self-certification or notice sent via mail will be $0.54. For purposes of this analysis, HHS assumes that 50 percent of self-certifications or notices to HHS will be mailed. The total cost for sending the self-certifications or notices to HHS by mail is approximately $2.70 for 5 entities. As DOL and HHS share jurisdiction they are splitting the cost burden so each will account for $1.35 of the cost burden.

b. ICRs Regarding Notice of Availability of Separate Payments for Contraceptive Services (§ 147.131(e))

As required by the July 2015 final regulations, a health insurance issuer or third party administrator providing or arranging separate payments for contraceptive services for participants and beneficiaries in insured or self-insured group health plans (or student enrollees and covered dependents in student health insurance coverage) of eligible organizations is required to provide a written notice to plan participants and beneficiaries (or student enrollees and covered dependents) informing them of the availability of such payments. The notice must be separate from, but contemporaneous with (to the extent possible), any application materials distributed in connection with enrollment (or re-enrollment) in group or student coverage of the eligible organization in any plan year to which the accommodation is to apply and will be provided annually. To satisfy the notice requirement, issuers and third party administrators may, but are not required to, use the model language set forth previously by HHS or substantially similar language. The burden for this ICR is currently approved under OMB control number 0938–1292.

As mentioned, HHS is anticipating that approximately 109 entities will use the optional accommodation (100 that used it previously, and 9 that will newly opt into it). It is unknown how many issuers or third party administrators provide health insurance coverage or services in connection with health plans of eligible organizations, but HHS will assume at least 109. It is estimated that each issuer or third party administrator will need approximately 1 hour of clerical labor (at $55.68 per hour)[104] and 15 minutes of management review (at $117.40 per hour)[105] to prepare the notices. The total burden for each issuer or third party administrator to prepare notices will be 1.25 hours with an equivalent cost of approximately $85.03. The total burden for all issuers or third party administrators will be 136 hours, with an equivalent cost of $9,268. As DOL and HHS share jurisdiction, they are splitting the hour burden so each will account for 68 burden hours with an equivalent cost of $4,634, with approximately 55 respondents.

As discussed above, the Departments estimate that 770,000 persons will be covered in the plans of the 100 entities that previously used the accommodation and will continue doing so, and that an additional 9 entities will newly opt into the accommodation. It is not known how many persons will be covered in the plans of the 9 entities newly using the accommodation. Assuming that those 9 entities will have a similar number of covered persons per entity, we estimate that all 109 accommodated entities will encompass 839,300 covered persons. We assume that sending one notice to each participant will satisfy the need to send the notices to all participants and dependents. Among persons covered by plans, approximately 50.1 percent are participants and 49.9 percent are

[99] For purposes of this analysis, the Department assumes that the same amount of time will be required to prepare the self-certification and the notice to HHS.

[100] Occupation code 43–6011 for Executive Secretaries and Executive Administrative Assistants with mean hourly wage $27.84, *https://www.bls.gov/oes/current/oes436011.htm.*

[101] Occupation code 11–3111 for Compensation and Benefits Managers with mean hourly wage $61.01, *https://www.bls.gov/oes/current/oes113111.htm.*

[102] Occupation code 23–1011 for Lawyers with mean hourly wage $67.25, *https://www.bls.gov/oes/current/oes231011.htm.*

[103] Occupation code11–1011 for Chief Executives with mean hourly wage $93.44, *https://www.bls.gov/oes/current/oes111011.htm.*

[104] Occupation code 43–6011 for Executive Secretaries and Executive Administrative Assistants with mean hourly wage $27.84.

[105] Occupation code 11–1021 General and Operations Managers with mean hourly wage $58.70.

dependents.[106] For 109 entities, the total number of notices will be 420,490. For purposes of this analysis, the Departments also assume that 53.7 percent of notices will be sent electronically, and 46.3 percent will be mailed.[107] Therefore, approximately 194,687 notices will be mailed. HHS estimates that each notice will require $0.49 in postage and $0.05 in materials cost (paper and ink) and the total postage and materials cost for each notice sent via mail will be $0.54. The total cost for sending approximately 194,687 notices by mail is approximately $105,131. As DOL and HHS share jurisdiction, they are splitting the cost burden so each will account for $52,565 of the cost burden.

c. ICRs Regarding Notice of Revocation of Accommodation (§ 147.131(c)(4))

An eligible organization may revoke its use of the accommodation process; its issuer or third party administrator must provide written notice of such revocation to participants and beneficiaries as soon as practicable. As discussed above, HHS estimates that 109 entities that are using the accommodation process will revoke their use of the accommodation, and will therefore be required to cause the notification to be sent (the issuer or third party administrator can send the notice on behalf of the entity). For the purpose of calculating ICRs associated with revocations of the accommodation, and for various reasons discussed above, HHS assumes that litigating entities that were previously using the accommodation and that will revoke it fall within the estimated 109 entities that will revoke the accommodation overall.

As before, HHS assumes that, for each issuer or third party administrator, a manager and inside legal counsel and clerical staff will need approximately 2 hours to prepare and send the notification to participants and beneficiaries and maintain records (30 minutes for a manager at a cost of $117.40 per hour,[108] 30 minutes for legal counsel at a cost of $134.50 per hour[109], 1 hour for clerical labor at a cost of $55.68 per hour[110]). The burden per respondent will be 2 hours with an equivalent cost of $181.63; for 109 entities, the total burden will be 218 hours with an equivalent cost of approximately $19,798. As DOL and HHS share jurisdiction, they are splitting the hour burden so each will account for 109 burden hours with an equivalent cost of approximately $9,899.

As discussed above, HHS estimates that there are 257,000 covered persons in accommodated plans that will revoke their accommodated status and use the expanded exemption.[111] As before, we use the average of 50.1 percent of covered persons who are policyholders, and estimate that an average of 53.7 percent of notices will be sent electronically and 46.3 percent by mail. Therefore, approximately 128,757 notices will be sent, of which 59,615 notices will be mailed. HHS estimates that each notice will require $0.49 in postage and $0.05 in materials cost (paper and ink) and the total postage and materials cost for each notice sent via mail will be $0.54. The total cost for sending approximately 59,615 notices by mail is approximately $32,192. As DOL and HHS share jurisdiction, they are splitting the hour burden so each will account for 64,379 notices, with an equivalent cost of approximately $16,096.

TABLE 1—SUMMARY OF INFORMATION COLLECTION BURDENS

Regulation section	OMB control No.	Number of respondents	Responses	Burden per respondent (hours)	Total annual burden (hours)	Hourly labor cost of reporting ($)	Total labor cost of reporting ($)	Total cost ($)
Self-Certification or Notices to HHS	0938—NEW	*5	5	0.83	3.75	$89.95	$337.31	$338.66
Notice of Availability of Separate Payments for Contraceptive Services.	0938—NEW	*55	210,245	1.25	68.13	68.02	4,634.14	57,199.59
Notice of Revocation of Accommodation	0938—NEW	*55	64,379	2.00	109	90.82	9,898.84	25,994.75
Total		*115	274,629	4.08	180.88		14,870.29	83,533.00

*The total number of respondents is 227 (= 9+109+109) for both HHS and DOL, but the summaries here and below exceed that total because of rounding up that occurs when sharing the burden between HHS and DOL.

Note: There are no capital/maintenance costs associated with the ICRs contained in this rule; therefore, we have removed the associated column from Table 1. Postage and material costs are included in Total Cost.

We are soliciting comments on all of the information collection requirements contained in these interim final rules. In addition, we are also soliciting comments on all of the related information collection requirements currently approved under 0938–1292 and 0938–1248. HHS is requesting a new OMB control number that will ultimately contain the approval for the new information collection requirements contained in these interim

[106] ''Health Insurance Coverage Bulletin'' Table 4, page 21. Using March 2015 Annual Social and Economic Supplement to the Current Population Survey. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf.*

[107] According to data from the National Telecommunications and Information Agency (NTIA), 36.0 percent of individuals age 25 and over have access to the Internet at work. According to a Greenwald & Associates survey, 84 percent of plan participants find it acceptable to make electronic delivery the default option, which is used as the proxy for the number of participants who will not opt out that are automatically enrolled (for a total of 30.2 percent receiving electronic disclosure at work). Additionally, the NTIA reports that 38.5 percent of individuals age 25 and over have access to the Internet outside of work. According to a Pew Research Center survey, 61 percent of Internet users use online banking, which is used as the proxy for the number of Internet users who will opt in for electronic disclosure (for a total of 23.5 percent receiving electronic disclosure outside of work). Combining the 30.2 percent who receive electronic disclosure at work with the 23.5 percent who receive electronic disclosure outside of work produces a total of 53.7 percent who will receive electronic disclosure overall.

[108] Occupation code 11–1021 for General and Operations Managers with mean hourly wage $58.70, *https://www.bls.gov/oes/current/oes111021.htm.*

[109] Occupation code 23–1011 for Lawyers with mean hourly wage $67.25, *https://www.bls.gov/oes/current/oes231011.htm.*

[110] Occupation code 43–6011 for Executive Secretaries and Executive Administrative Assistants with mean hourly wage $27.84, *https://www.bls.gov/oes/current/oes436011.htm.*

[111] In estimating the number of women that might have their contraceptive coverage affected by the expanded exemption, we indicated that we do not know the extent to which the number of women in accommodated plans affected by these rules overlap with the number of women in plans offered by litigating entities that will be affected by these rules, though we assume there is significant overlap. That uncertainty should not affect the calculation of the ICRs for revocation notices, however. If the two numbers overlap, the estimates of plans revoking the accommodation and policyholders covered in those plans would already include plans and policyholders of litigating entities. If the numbers do not overlap, those litigating entity plans would not presently be enrolled in the accommodation, and therefore would not need to send notices concerning revocation of accommodated status.

final rules as well as the related requirements currently approved under 0938–1292 and 0938–1248. In an effort to consolidate the number of information collection requests, we will formally discontinue the control numbers 0938–1292 and 0938–1248 once the new information collection request associated with these interim final rules is approved.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

If you comment on these information collections, that is, reporting, recordkeeping or third-party disclosure requirements, please submit your comments electronically as specified in the **ADDRESSES** section of these interim final rules with comment period.

E. Paperwork Reduction Act—Department of Labor

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number. In accordance with the requirements of the PRA, the ICR for the EBSA Form 700 and alternative notice have previously been approved by OMB under control numbers 1210–0150 and 1210–0152. A copy of the ICR may be obtained by contacting the PRA addressee shown below or at *http://www.RegInfo.gov*. PRA ADDRESSEE: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: 202–693–8410; Fax: 202–219–4745. These are not toll-free numbers.

These interim final rules amend the ICR by changing the accommodation process to an optional process for exempt organizations and requiring a notice of revocation to be sent by the issuer or third party administrator to participants and beneficiaries in plans whose employer who revokes their accommodation. DOL submitted the ICRs in order to obtain OMB approval under the PRA for the regulatory revision. The request was made under emergency clearance procedures specified in regulations at 5 CFR 1320.13. In an effort to consolidate the number of information collection requests, DOL will combine the ICR related to the OMB control number 1210–0152 with the ICR related to the OMB control number 1210–0150. Once the ICR is approved DOL will discontinue 1210–0152. A copy of the information collection request may be obtained free of charge on the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-1210-001*. This approval will allow respondents to temporarily utilize the additional flexibility these interim final regulations provide, while DOL seeks public comment on the collection methods—including their utility and burden.

Consistent with the analysis in the HHS PRA section above, the Departments expect that each of the estimated 9 eligible organizations newly opting into the accommodation will spend approximately 50 minutes in preparation time and incur $0.54 mailing cost to self-certify or notify HHS. Each of the 109 issuers or third party administrators for the 109 eligible organizations that make use of the accommodation overall will distribute Notices of Availability of Separate Payments for Contraceptive Services. These issuers and third party administrators will spend approximately 1.25 hours in preparation time and incur $0.54 cost per mailed notice. Notices of Availability of Separate Payments for Contraceptive Services will need to be sent to 420,489 policyholders, and 53.7 percent of the notices will be sent electronically, while 46.3 percent will be mailed. Finally, 109 entities using the previous accommodation process will revoke its use and will therefore be required to cause the Notice of Revocation of Accommodation to be sent (the issuer or third party administrator can send the notice on behalf of the entity). These entities will spend approximately two hours in preparation time and incur $0.54 cost per mailed notice. Notice of Revocation of Accommodation will need to be sent to an average of 128,757 policyholders and 53.7 percent of the notices will be sent electronically. The DOL information collections in this rule are found in 29 CFR 2510.3–16 and 2590.715–2713A and are summarized as follows:

Type of Review: Revised Collection.

Agency: DOL–EBSA.

Title: Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector.

OMB Numbers: 1210–0150.

Affected Public: Private Sector—Not for profit and religious organizations; businesses or other for-profits.

Total Respondents: 114 [112] (combined with HHS total is 227).

Total Responses: 274,628 (combined with HHS total is 549,255).

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 181 (combined with HHS total is 362 hours).

Estimated Total Annual Burden Cost: $68,662 (combined with HHS total is $137,325).

Type of Review: Revised Collection.

Agency: DOL–EBSA.

F. Regulatory Reform Executive Orders 13765, 13771 and 13777

Executive Order 13765 (January 20, 2017) directs that, ''[t]o the maximum extent permitted by law, the Secretary of the Department of Health and Human Services and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.'' In addition, agencies are directed to ''take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the [Affordable Care Act], and prepare to afford the States more flexibility and control to create a more free and open healthcare market.'' These interim final rules exercise the discretion provided to the Departments under the Affordable Care Act, RFRA, and other laws to grant exemptions and thereby minimize regulatory burdens of the Affordable Care Act on the affected entities and recipients of health care services.

Consistent with Executive Order 13771 (82 FR 9339, February 3, 2017), we have estimated the costs and cost savings attributable to this interim final rule. As discussed in more detail in the preceding analysis, this interim final rule lessens incremental reporting

[112] Denotes that there is an overlap between jurisdiction shared by HHS and DOL over these respondents and therefore they are included only once in the total.

costs.[113] Therefore, this interim final rule is considered an Executive Order 13771 deregulatory action.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (section 202(a) of Pub. L. 104–4), requires the Departments to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''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 $148 million, using the most current (2016) Implicit Price Deflater for the Gross Domestic Product. For purposes of the Unfunded Mandates Reform Act, these interim final rules do not include any Federal mandate that may result in expenditures by State, local, or tribal governments, nor do they include any Federal mandates that may impose an annual burden of $100 million, adjusted for inflation, or more on the private sector.

G. Federalism

Executive Order 13132 outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have ''substantial direct effects'' on States, the relationship between the Federal Government and States, or the distribution of power and responsibilities among the various levels of Government. Federal agencies promulgating regulations that have these federalism implications must consult with State and local officials, and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the regulation.

These interim final rules do not have any Federalism implications, since they only provide exemptions from the contraceptive and sterilization coverage requirement in HRSA Guidelines supplied under section 2713 of the PHS Act.

VII. Statutory Authority

The Department of the Treasury temporary regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are adopted pursuant to the authority contained in 29 U.S.C. 1002(16), 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Public Law 111–148, 124 Stat. 119, as amended by Public Law 111–152, 124 Stat. 1029; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

The Department of Health and Human Services regulations are adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended; and Title I of the Affordable Care Act, sections 1301–1304, 1311–1312, 1321–1322, 1324, 1334, 1342–1343, 1401–1402, and 1412, Public Law 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18032, 18041–18042, 18044, 18054, 18061, 18063, 18071, 18082, 26 U.S.C. 36B, and 31 U.S.C. 9701).

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

Kirsten B. Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: October 2, 2017.

David J. Kautter,

Assistant Secretary for Tax Policy.

Signed this 4th day of October, 2017.

Timothy D. Hauser,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

Dated: October 4, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Approved: October 4, 2017.

Donald Wright,

Acting Secretary, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

For the reasons set forth in this preamble, 26 CFR part 54 is amended as follows:

PART 54—PENSION EXCISE TAXES

■ 1. The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ 2. Section 54.9815–2713 is amended by revising paragraphs (a)(1) introductory text and (a)(1)(iv) to read as follows:

§ 54.9815–2713 Coverage of preventive health services.

(a) * * *

(1) *In general.* [Reserved]. For further guidance, see § 54.9815–2713T(a)(1) introductory text.

* * * * *

(iv) [Reserved]. For further guidance, see § 54.9815–2713T(a)(1)(iv).

* * * * *

■ 3. Section 54.9815–2713T is added to read as follows:

§ 54.9815–2713T Coverage of preventive health services (temporary).

(a) *Services*—(1) *In general.* Beginning at the time described in paragraph (b) of § 54.9815–2713 and subject to § 54.9815–2713A, a group health plan, or a health insurance issuer offering group health insurance coverage, must provide coverage for and must not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible) for—

(i)–(iii) [Reserved]. For further guidance, see § 54.9815–2713(a)(1)(i) through (iii).

[113] Other noteworthy potential impacts encompass potential changes in medical expenditures, including potential decreased expenditures on contraceptive devices and drugs and potential increased expenditures on pregnancy-related medical services. OMB's guidance on E.O. 13771 implementation (*https://www.whitehouse.gov/the-press-office/2017/04/05/memorandum-implementing-executive-order-13771-titled-reducing-regulation*) states that impacts should be categorized as consistently as possible within Departments. The Food and Drug Administration, within HHS, and the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA), within DOL, regularly estimate medical expenditure impacts in the analyses that accompany their regulations, with the results being categorized as benefits (positive benefits if expenditures are reduced, negative benefits if expenditures are raised). Following the FDA, OSHA and MSHA accounting convention leads to this interim final rule's medical expenditure impacts being categorized as (positive or negative) benefits, rather than as costs, thus placing them outside of consideration for E.O. 13771 designation purposes.

(iv) With respect to women, such additional preventive care and screenings not described in paragraph (a)(1)(i) of § 54.9815–2713 as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of section 2713(a)(4) of the Public Health Service Act, subject to 45 CFR 147.131 and 147.132.

(2)–(c) [Reserved]. For further guidance, see § 54.9815–2713(a)(2) through (c).

(d) *Effective/Applicability date.* (1) Paragraphs (a) through (c) of this section are applicable beginning on April 16, 2012, except—

(2) Paragraphs (a)(1) introductory text and (a)(1)(iv) of this section are effective on October 6, 2017.

(e) *Expiration date.* This section expires on October 6, 2020.

■ 4. Section 54.9815–2713A is revised to read as follows:

§ 54.9815–2713A Accommodations in connection with coverage of preventive health services.

(a) through (f) [Reserved]. For further guidance, see § 54.9815–2713AT.

(b)

■ 5. Section 54.9815–2713AT is added to read as follows:

§ 54.9815–2713AT Accommodations in connection with coverage of preventive health services (temporary).

(a) *Eligible organizations for optional accommodation.* An eligible organization is an organization that meets the criteria of paragraphs (a)(1) through (4) of this section.

(1) The organization is an objecting entity described in 45 CFR 147.132(a)(1)(i) or (ii);

(2) Notwithstanding its status under paragraph (a)(1) of this section and under 45 CFR 147.132(a), the organization voluntarily seeks to be considered an eligible organization to invoke the optional accommodation under paragraph (b) or (c) of this section as applicable; and

(3) [Reserved]

(4) The organization self-certifies in the form and manner specified by the Secretary of Labor or provides notice to the Secretary of the Department of Health and Human Services as described in paragraph (b) or (c) of this section. To qualify as an eligible organization, the organization must make such self-certification or notice available for examination upon request by the first day of the first plan year to which the accommodation in paragraph (b) or (c) of this section applies. The self-certification or notice must be executed by a person authorized to make the certification or provide the notice on behalf of the organization, and must be maintained in a manner consistent with the record retention requirements under section 107 of ERISA.

(5) An eligible organization may revoke its use of the accommodation process, and its issuer or third party administrator must provide participants and beneficiaries written notice of such revocation as specified in guidance issued by the Secretary of the Department of Health and Human Services. If contraceptive coverage is currently being offered by an issuer or third party administrator through the accommodation process, the revocation will be effective on the first day of the first plan year that begins on or after 30 days after the date of the revocation (to allow for the provision of notice to plan participants in cases where contraceptive benefits will no longer be provided). Alternatively, an eligible organization may give sixty-days notice pursuant to section 2715(d)(4) of the PHS Act and § 54.9815–2715(b), if applicable, to revoke its use of the accommodation process.

(b) *Optional accommodation—self-insured group health plans.* (1) A group health plan established or maintained by an eligible organization that provides benefits on a self-insured basis may voluntarily elect an optional accommodation under which its third party administrator(s) will provide or arrange payments for all or a subset of contraceptive services for one or more plan years. To invoke the optional accommodation process:

(i) The eligible organization or its plan must contract with one or more third party administrators.

(ii) The eligible organization must provide either a copy of the self-certification to each third party administrator or a notice to the Secretary of the Department of Health and Human Services that it is an eligible organization and of its objection as described in 45 CFR 147.132 to coverage of all or a subset of contraceptive services.

(A) When a copy of the self-certification is provided directly to a third party administrator, such self-certification must include notice that obligations of the third party administrator are set forth in 29 CFR 2510.3–16 and this section.

(B) When a notice is provided to the Secretary of Health and Human Services, the notice must include the name of the eligible organization; a statement that it objects as described in 45 CFR 147.132 to coverage of some or all contraceptive services (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable), but that it would like to elect the optional accommodation process; the plan name and type (that is, whether it is a student health insurance plan within the meaning of 45 CFR 147.145(a) or a church plan within the meaning of section 3(33) of ERISA); and the name and contact information for any of the plan's third party administrators. If there is a change in any of the information required to be included in the notice, the eligible organization must provide updated information to the Secretary of the Department of Health and Human Services for the optional accommodation process to remain in effect. The Department of Labor (working with the Department of Health and Human Services), will send a separate notification to each of the plan's third party administrators informing the third party administrator that the Secretary of the Department of Health and Human Services has received a notice under paragraph (b)(1)(ii) of this section and describing the obligations of the third party administrator under 29 CFR 2510.3–16 and this section.

(2) If a third party administrator receives a copy of the self-certification from an eligible organization or a notification from the Department of Labor, as described in paragraph (b)(1)(ii) of this section, and is willing to enter into or remain in a contractual relationship with the eligible organization or its plan to provide administrative services for the plan, then the third party administrator will provide or arrange payments for contraceptive services, using one of the following methods—

(i) Provide payments for the contraceptive services for plan participants and beneficiaries without imposing any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries; or

(ii) Arrange for an issuer or other entity to provide payments for the contraceptive services for plan participants and beneficiaries without imposing any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries.

(3) If a third party administrator provides or arranges payments for contraceptive services in accordance with either paragraph (b)(2)(i) or (ii) of this section, the costs of providing or arranging such payments may be reimbursed through an adjustment to the Federally facilitated Exchange user fee for a participating issuer pursuant to 45 CFR 156.50(d).

(4) A third party administrator may not require any documentation other than a copy of the self-certification from the eligible organization or notification from the Department of Labor described in paragraph (b)(1)(ii) of this section.

(5) Where an otherwise eligible organization does not contract with a third party administrator and files a self-certification or notice under paragraph (b)(1)(ii) of this section, the obligations under paragraph (b)(2) of this section do not apply, and the otherwise eligible organization is under no requirement to provide coverage or payments for contraceptive services to which it objects. The plan administrator for that otherwise eligible organization may, if it and the otherwise eligible organization choose, arrange for payments for contraceptive services from an issuer or other entity in accordance with paragraph (b)(2)(ii) of this section, and such issuer or other entity may receive reimbursements in accordance with paragraph (b)(3) of this section.

(6) Where an otherwise eligible organization is an ERISA-exempt church plan within the meaning of section 3(33) of ERISA and it files a self-certification or notice under paragraph (b)(1)(ii) of this section, the obligations under paragraph (b)(2) of this section do not apply, and the otherwise eligible organization is under no requirement to provide coverage or payments for contraceptive services to which it objects. The third party administrator for that otherwise eligible organization may, if it and the otherwise eligible organization choose, provide or arrange payments for contraceptive services in accordance with paragraphs (b)(2)(i) or (ii) of this section, and receive reimbursements in accordance with paragraph (b)(3) of this section.

(c) *Optional accommodation—insured group health plans*—(1) *General rule.* A group health plan established or maintained by an eligible organization that provides benefits through one or more group health insurance issuers may voluntarily elect an optional accommodation under which its health insurance issuer(s) will provide payments for all or a subset of contraceptive services for one or more plan years. To invoke the optional accommodation process—

(i) The eligible organization or its plan must contract with one or more health insurance issuers.

(ii) The eligible organization must provide either a copy of the self-certification to each issuer providing coverage in connection with the plan or a notice to the Secretary of the Department of Health and Human Services that it is an eligible organization and of its objection as described in 45 CFR 147.132 to coverage for all or a subset of contraceptive services.

(A) When a self-certification is provided directly to an issuer, the issuer has sole responsibility for providing such coverage in accordance with § 54.9815–2713.

(B) When a notice is provided to the Secretary of the Department Health and Human Services, the notice must include the name of the eligible organization; a statement that it objects as described in 45 CFR 147.132 to coverage of some or all contraceptive services (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable) but that it would like to elect the optional accommodation process; the plan name and type (that is, whether it is a student health insurance plan within the meaning of 45 CFR 147.145(a) or a church plan within the meaning of section 3(33) of ERISA); and the name and contact information for any of the plan's health insurance issuers. If there is a change in any of the information required to be included in the notice, the eligible organization must provide updated information to the Secretary of Department of Health and Human Services for the optional accommodation process to remain in effect. The Department of Health and Human Services will send a separate notification to each of the plan's health insurance issuers informing the issuer that the Secretary of the Department Health and Human Services has received a notice under paragraph (c)(2)(ii) of this section and describing the obligations of the issuer under this section.

(2) If an issuer receives a copy of the self-certification from an eligible organization or the notification from the Department of Health and Human Services as described in paragraph (c)(2)(ii) of this section and does not have its own objection as described in 45 CFR 147.132 to providing the contraceptive services to which the eligible organization objects, then the issuer will provide payments for contraceptive services as follows—

(i) The issuer must expressly exclude contraceptive coverage from the group health insurance coverage provided in connection with the group health plan and provide separate payments for any contraceptive services required to be covered under § 54.9815–2713(a)(1)(iv) for plan participants and beneficiaries for so long as they remain enrolled in the plan.

(ii) With respect to payments for contraceptive services, the issuer may not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), or impose any premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries. The issuer must segregate premium revenue collected from the eligible organization from the monies used to provide payments for contraceptive services. The issuer must provide payments for contraceptive services in a manner that is consistent with the requirements under sections 2706, 2709, 2711, 2713, 2719, and 2719A of the PHS Act, as incorporated into section 9815 of the PHS Act. If the group health plan of the eligible organization provides coverage for some but not all of any contraceptive services required to be covered under § 54.9815–2713(a)(1)(iv), the issuer is required to provide payments only for those contraceptive services for which the group health plan does not provide coverage. However, the issuer may provide payments for all contraceptive services, at the issuer's option.

(3) A health insurance issuer may not require any documentation other than a copy of the self-certification from the eligible organization or the notification from the Department of Health and Human Services described in paragraph (c)(1)(ii) of this section.

(d) *Notice of availability of separate payments for contraceptive services—self-insured and insured group health plans.* For each plan year to which the optional accommodation in paragraph (b) or (c) of this section is to apply, a third party administrator required to provide or arrange payments for contraceptive services pursuant to paragraph (b) of this section, and an issuer required to provide payments for contraceptive services pursuant to paragraph (c) of this section, must provide to plan participants and beneficiaries written notice of the availability of separate payments for contraceptive services contemporaneous with (to the extent possible), but separate from, any application materials distributed in connection with enrollment (or re-enrollment) in group

health coverage that is effective beginning on the first day of each applicable plan year. The notice must specify that the eligible organization does not administer or fund contraceptive benefits, but that the third party administrator or issuer, as applicable, provides or arranges separate payments for contraceptive services, and must provide contact information for questions and complaints. The following model language, or substantially similar language, may be used to satisfy the notice requirement of this paragraph (d): ''Your employer has certified that your group health plan qualifies for an accommodation with respect to the Federal requirement to cover all Food and Drug Administration-approved contraceptive services for women, as prescribed by a health care provider, without cost sharing. This means that your employer will not contract, arrange, pay, or refer for contraceptive coverage. Instead, [name of third party administrator/health insurance issuer] will provide or arrange separate payments for contraceptive services that you use, without cost sharing and at no other cost, for so long as you are enrolled in your group health plan. Your employer will not administer or fund these payments. If you have any questions about this notice, contact [contact information for third party administrator/health insurance issuer].''

(e) *Definition.* For the purposes of this section, reference to ''contraceptive'' services, benefits, or coverage includes contraceptive or sterilization items, procedures, or services, or related patient education or counseling, to the extent specified for purposes of § 54.9815–2713(a)(1)(iv).

(f) *Severability.* Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

(g) *Expiration date.* This section expires on October 6, 2020.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

For the reasons set forth in the preamble, the Department of Labor amends 29 CFR part 2590 as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 6. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Division M, Pub. L. 113–235, 128 Stat. 2130; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

■ 7. Section 2590.715–2713 is amended by revising paragraphs (a)(1) introductory text and (a)(1)(iv) to read as follows:

§ 2590.715–2713 Coverage of preventive health services.

(a) *Services*—(1) *In general.* Beginning at the time described in paragraph (b) of this section and subject to § 2590.715–2713A, a group health plan, or a health insurance issuer offering group health insurance coverage, must provide coverage for and must not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible) for—

* * * * *

(iv) With respect to women, such additional preventive care and screenings not described in paragraph (a)(1)(i) of this section as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of section 2713(a)(4) of the Public Health Service Act, subject to 45 CFR 147.131 and 147.132.

* * * * *

■ 8. Section 2590.715–2713A is revised to read as follows:

§ 2590.715–2713A Accommodations in connection with coverage of preventive health services.

(a) *Eligible organizations for optional accommodation.* An eligible organization is an organization that meets the criteria of paragraphs (a)(1) through (4) of this section.

(1) The organization is an objecting entity described in 45 CFR 147.132(a)(1)(i) or (ii);

(2) Notwithstanding its exempt status under 45 CFR 147.132(a), the organization voluntarily seeks to be considered an eligible organization to invoke the optional accommodation under paragraph (b) or (c) of this section as applicable; and

(3) [Reserved]

(4) The organization self-certifies in the form and manner specified by the Secretary or provides notice to the Secretary of the Department of Health and Human Services as described in paragraph (b) or (c) of this section. To qualify as an eligible organization, the organization must make such self-certification or notice available for examination upon request by the first day of the first plan year to which the accommodation in paragraph (b) or (c) of this section applies. The self-certification or notice must be executed by a person authorized to make the certification or provide the notice on behalf of the organization, and must be maintained in a manner consistent with the record retention requirements under section 107 of ERISA.

(5) An eligible organization may revoke its use of the accommodation process, and its issuer or third party administrator must provide participants and beneficiaries written notice of such revocation as specified in guidance issued by the Secretary of the Department of Health and Human Services. If contraceptive coverage is currently being offered by an issuer or third party administrator through the accommodation process, the revocation will be effective on the first day of the first plan year that begins on or after 30 days after the date of the revocation (to allow for the provision of notice to plan participants in cases where contraceptive benefits will no longer be provided). Alternatively, an eligible organization may give 60-days notice pursuant to PHS Act section 2715(d)(4) and § 2590.715–2715(b), if applicable, to revoke its use of the accommodation process.

(b) *Optional accommodation—self-insured group health plans.* (1) A group health plan established or maintained by an eligible organization that provides benefits on a self-insured basis may voluntarily elect an optional accommodation under which its third party administrator(s) will provide or arrange payments for all or a subset of contraceptive services for one or more plan years. To invoke the optional accommodation process:

(i) The eligible organization or its plan must contract with one or more third party administrators.

(ii) The eligible organization must provide either a copy of the self-certification to each third party administrator or a notice to the Secretary of the Department of Health and Human Services that it is an eligible organization and of its objection as described in 45 CFR 147.132 to coverage of all or a subset of contraceptive services.

(A) When a copy of the self-certification is provided directly to a third party administrator, such self-certification must include notice that obligations of the third party administrator are set forth in § 2510.3–16 of this chapter and this section.

(B) When a notice is provided to the Secretary of Health and Human Services, the notice must include the name of the eligible organization; a statement that it objects as described in 45 CFR 147.132 to coverage of some or all contraceptive services (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable), but that it would like to elect the optional accommodation process; the plan name and type (that is, whether it is a student health insurance plan within the meaning of 45 CFR 147.145(a) or a church plan within the meaning of section 3(33) of ERISA); and the name and contact information for any of the plan's third party administrators. If there is a change in any of the information required to be included in the notice, the eligible organization must provide updated information to the Secretary of the Department of Health and Human Services for the optional accommodation process to remain in effect. The Department of Labor (working with the Department of Health and Human Services), will send a separate notification to each of the plan's third party administrators informing the third party administrator that the Secretary of the Department of Health and Human Services has received a notice under paragraph (b)(1)(ii) of this section and describing the obligations of the third party administrator under § 2510.3–16 of this chapter and this section.

(2) If a third party administrator receives a copy of the self-certification from an eligible organization or a notification from the Department of Labor, as described in paragraph (b)(1)(ii) of this section, and is willing to enter into or remain in a contractual relationship with the eligible organization or its plan to provide administrative services for the plan, then the third party administrator will provide or arrange payments for contraceptive services, using one of the following methods—

(i) Provide payments for the contraceptive services for plan participants and beneficiaries without imposing any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries; or

(ii) Arrange for an issuer or other entity to provide payments for contraceptive services for plan participants and beneficiaries without imposing any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries.

(3) If a third party administrator provides or arranges payments for contraceptive services in accordance with either paragraph (b)(2)(i) or (ii) of this section, the costs of providing or arranging such payments may be reimbursed through an adjustment to the Federally facilitated Exchange user fee for a participating issuer pursuant to 45 CFR 156.50(d).

(4) A third party administrator may not require any documentation other than a copy of the self-certification from the eligible organization or notification from the Department of Labor described in paragraph (b)(1)(ii) of this section.

(5) Where an otherwise eligible organization does not contract with a third party administrator and it files a self-certification or notice under paragraph (b)(1)(ii) of this section, the obligations under paragraph (b)(2) of this section do not apply, and the otherwise eligible organization is under no requirement to provide coverage or payments for contraceptive services to which it objects. The plan administrator for that otherwise eligible organization may, if it and the otherwise eligible organization choose, arrange for payments for contraceptive services from an issuer or other entity in accordance with paragraph (b)(2)(ii) of this section, and such issuer or other entity may receive reimbursements in accordance with paragraph (b)(3) of this section.

(c) *Optional accommodation—insured group health plans*—(1) *General rule.* A group health plan established or maintained by an eligible organization that provides benefits through one or more group health insurance issuers may voluntarily elect an optional accommodation under which its health insurance issuer(s) will provide payments for all or a subset of contraceptive services for one or more plan years. To invoke the optional accommodation process:

(i) The eligible organization or its plan must contract with one or more health insurance issuers.

(ii) The eligible organization must provide either a copy of the self-certification to each issuer providing coverage in connection with the plan or a notice to the Secretary of the Department of Health and Human Services that it is an eligible organization and of its objection as described in 45 CFR 147.132 to coverage for all or a subset of contraceptive services.

(A) When a self-certification is provided directly to an issuer, the issuer has sole responsibility for providing such coverage in accordance with § 2590.715–2713.

(B) When a notice is provided to the Secretary of the Department of Health and Human Services, the notice must include the name of the eligible organization; a statement that it objects as described in 45 CFR 147.132 to coverage of some or all contraceptive services (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable) but that it would like to elect the optional accommodation process; the plan name and type (that is, whether it is a student health insurance plan within the meaning of 45 CFR 147.145(a) or a church plan within the meaning of section 3(33) of ERISA); and the name and contact information for any of the plan's health insurance issuers. If there is a change in any of the information required to be included in the notice, the eligible organization must provide updated information to the Secretary of Department Health and Human Services for the optional accommodation process to remain in effect. The Department of Health and Human Services will send a separate notification to each of the plan's health insurance issuers informing the issuer that the Secretary of Health and Human Services has received a notice under paragraph (c)(2)(ii) of this section and describing the obligations of the issuer under this section.

(2) If an issuer receives a copy of the self-certification from an eligible organization or the notification from the Department of Health and Human Services as described in paragraph (c)(2)(ii) of this section and does not have its own objection as described in 45 CFR 147.132 to providing the contraceptive services to which the eligible organization objects, then the issuer will provide payments for contraceptive services as follows—

(i) The issuer must expressly exclude contraceptive coverage from the group health insurance coverage provided in connection with the group health plan and provide separate payments for any contraceptive services required to be covered under § 2590.715–2713(a)(1)(iv) for plan participants and beneficiaries

for so long as they remain enrolled in the plan.

(ii) With respect to payments for contraceptive services, the issuer may not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), or impose any premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries. The issuer must segregate premium revenue collected from the eligible organization from the monies used to provide payments for contraceptive services. The issuer must provide payments for contraceptive services in a manner that is consistent with the requirements under sections 2706, 2709, 2711, 2713, 2719, and 2719A of the PHS Act, as incorporated into section 715 of ERISA. If the group health plan of the eligible organization provides coverage for some but not all of any contraceptive services required to be covered under § 2590.715–2713(a)(1)(iv), the issuer is required to provide payments only for those contraceptive services for which the group health plan does not provide coverage. However, the issuer may provide payments for all contraceptive services, at the issuer's option.

(3) A health insurance issuer may not require any documentation other than a copy of the self-certification from the eligible organization or the notification from the Department of Health and Human Services described in paragraph (c)(1)(ii) of this section.

(d) *Notice of availability of separate payments for contraceptive services—self-insured and insured group health plans.* For each plan year to which the optional accommodation in paragraph (b) or (c) of this section is to apply, a third party administrator required to provide or arrange payments for contraceptive services pursuant to paragraph (b) of this section, and an issuer required to provide payments for contraceptive services pursuant to paragraph (c) of this section, must provide to plan participants and beneficiaries written notice of the availability of separate payments for contraceptive services contemporaneous with (to the extent possible), but separate from, any application materials distributed in connection with enrollment (or re-enrollment) in group health coverage that is effective beginning on the first day of each applicable plan year. The notice must specify that the eligible organization does not administer or fund contraceptive benefits, but that the third party administrator or issuer, as applicable, provides or arranges separate payments for contraceptive services, and must provide contact information for questions and complaints. The following model language, or substantially similar language, may be used to satisfy the notice requirement of this paragraph (d): ''Your employer has certified that your group health plan qualifies for an accommodation with respect to the Federal requirement to cover all Food and Drug Administration-approved contraceptive services for women, as prescribed by a health care provider, without cost sharing. This means that your employer will not contract, arrange, pay, or refer for contraceptive coverage. Instead, [name of third party administrator/health insurance issuer] will provide or arrange separate payments for contraceptive services that you use, without cost sharing and at no other cost, for so long as you are enrolled in your group health plan. Your employer will not administer or fund these payments. If you have any questions about this notice, contact [contact information for third party administrator/health insurance issuer].''

(e) *Definition.* For the purposes of this section, reference to ''contraceptive'' services, benefits, or coverage includes contraceptive or sterilization items, procedures, or services, or related patient education or counseling, to the extent specified for purposes of § 2590.715–2713(a)(1)(iv).

(f) *Severability.* Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 147 as follows:

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 9. The authority citation for part 147 continues to read as follows:

Authority: Secs 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 10. Section 147.130 is amended by revising paragraphs (a)(1) introductory text and (a)(1)(iv) to read as follows:

§ 147.130 Coverage of preventive health services.

(a) * * *

(1) *In general.* Beginning at the time described in paragraph (b) of this section and subject to §§ 147.131 and 147.132, a group health plan, or a health insurance issuer offering group or individual health insurance coverage, must provide coverage for and must not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible) for—

* * * * *

(iv) With respect to women, such additional preventive care and screenings not described in paragraph (a)(1)(i) of this section as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of section 2713(a)(4) of the Public Health Service Act, subject to §§ 147.131 and 147.132.

* * * * *

■ 11. Section 147.131 is revised to read as follows:

§ 147.131 Accommodations in connection with coverage of certain preventive health services.

(a)–(b) [Reserved]

(c) *Eligible organizations for optional accommodation.* An eligible organization is an organization that meets the criteria of paragraphs (c)(1) through (3) of this section.

(1) The organization is an objecting entity described in § 147.132(a)(1)(i) or (ii).

(2) Notwithstanding its exempt status under § 147.132(a), the organization voluntarily seeks to be considered an eligible organization to invoke the optional accommodation under paragraph (d) of this section; and

(3) The organization self-certifies in the form and manner specified by the Secretary or provides notice to the Secretary as described in paragraph (d) of this section. To qualify as an eligible organization, the organization must make such self-certification or notice available for examination upon request by the first day of the first plan year to which the accommodation in paragraph (d) of this section applies. The self-certification or notice must be executed by a person authorized to make the certification or provide the notice on behalf of the organization, and must be maintained in a manner consistent with the record retention requirements under section 107 of ERISA.

(4) An eligible organization may revoke its use of the accommodation process, and its issuer must provide participants and beneficiaries written notice of such revocation as specified in guidance issued by the Secretary of the Department of Health and Human Services. If contraceptive coverage is currently being offered by an issuer through the accommodation process, the revocation will be effective on the first day of the first plan year that begins on or after 30 days after the date of the revocation (to allow for the provision of notice to plan participants in cases where contraceptive benefits will no longer be provided). Alternatively, an eligible organization may give 60-days notice pursuant to section 2715(d)(4) of the PHS Act and § 147.200(b), if applicable, to revoke its use of the accommodation process.

(d) *Optional accommodation—insured group health plans*—(1) *General rule.* A group health plan established or maintained by an eligible organization that provides benefits through one or more group health insurance issuers may voluntarily elect an optional accommodation under which its health insurance issuer(s) will provide payments for all or a subset of contraceptive services for one or more plan years. To invoke the optional accommodation process:

(i) The eligible organization or its plan must contract with one or more health insurance issuers.

(ii) The eligible organization must provide either a copy of the self-certification to each issuer providing coverage in connection with the plan or a notice to the Secretary of the Department of Health and Human Services that it is an eligible organization and of its objection as described in § 147.132 to coverage for all or a subset of contraceptive services.

(A) When a self-certification is provided directly to an issuer, the issuer has sole responsibility for providing such coverage in accordance with § 147.130(a)(iv).

(B) When a notice is provided to the Secretary of the Department of Health and Human Services, the notice must include the name of the eligible organization; a statement that it objects as described in § 147.132 to coverage of some or all contraceptive services (including an identification of the subset of contraceptive services to which coverage the eligible organization objects, if applicable) but that it would like to elect the optional accommodation process; the plan name and type (that is, whether it is a student health insurance plan within the meaning of § 147.145(a) or a church plan within the meaning of section 3(33) of ERISA); and the name and contact information for any of the plan's health insurance issuers. If there is a change in any of the information required to be included in the notice, the eligible organization must provide updated information to the Secretary of the Department of Health and Human Services for the optional accommodation to remain in effect. The Department of Health and Human Services will send a separate notification to each of the plan's health insurance issuers informing the issuer that the Secretary of the Deparement of Health and Human Services has received a notice under paragraph (d)(1)(ii) of this section and describing the obligations of the issuer under this section.

(2) If an issuer receives a copy of the self-certification from an eligible organization or the notification from the Department of Health and Human Services as described in paragraph (d)(1)(ii) of this section and does not have an objection as described in § 147.132 to providing the contraceptive services identified in the self-certification or the notification from the Department of Health and Human Services, then the issuer will provide payments for contraceptive services as follows—

(i) The issuer must expressly exclude contraceptive coverage from the group health insurance coverage provided in connection with the group health plan and provide separate payments for any contraceptive services required to be covered under § 141.130(a)(1)(iv) for plan participants and beneficiaries for so long as they remain enrolled in the plan.

(ii) With respect to payments for contraceptive services, the issuer may not impose any cost-sharing requirements (such as a copayment, coinsurance, or a deductible), premium, fee, or other charge, or any portion thereof, directly or indirectly, on the eligible organization, the group health plan, or plan participants or beneficiaries. The issuer must segregate premium revenue collected from the eligible organization from the monies used to provide payments for contraceptive services. The issuer must provide payments for contraceptive services in a manner that is consistent with the requirements under sections 2706, 2709, 2711, 2713, 2719, and 2719A of the PHS Act. If the group health plan of the eligible organization provides coverage for some but not all of any contraceptive services required to be covered under § 147.130(a)(1)(iv), the issuer is required to provide payments only for those contraceptive services for which the group health plan does not provide coverage. However, the issuer may provide payments for all contraceptive services, at the issuer's option.

(3) A health insurance issuer may not require any documentation other than a copy of the self-certification from the eligible organization or the notification from the Department of Health and Human Services described in paragraph (d)(1)(ii) of this section.

(e) *Notice of availability of separate payments for contraceptive services—insured group health plans and student health insurance coverage.* For each plan year to which the optional accommodation in paragraph (d) of this section is to apply, an issuer required to provide payments for contraceptive services pursuant to paragraph (d) of this section must provide to plan participants and beneficiaries written notice of the availability of separate payments for contraceptive services contemporaneous with (to the extent possible), but separate from, any application materials distributed in connection with enrollment (or re-enrollment) in group health coverage that is effective beginning on the first day of each applicable plan year. The notice must specify that the eligible organization does not administer or fund contraceptive benefits, but that the issuer provides separate payments for contraceptive services, and must provide contact information for questions and complaints. The following model language, or substantially similar language, may be used to satisfy the notice requirement of this paragraph (e) ''Your [employer/institution of higher education] has certified that your [group health plan/student health insurance coverage] qualifies for an accommodation with respect to the Federal requirement to cover all Food and Drug Administration-approved contraceptive services for women, as prescribed by a health care provider, without cost sharing. This means that your [employer/institution of higher education] will not contract, arrange, pay, or refer for contraceptive coverage. Instead, [name of health insurance issuer] will provide separate payments for contraceptive services that you use, without cost sharing and at no other cost, for so long as you are enrolled in your [group health plan/student health insurance coverage]. Your [employer/institution of higher education] will not administer or fund these payments . If you have any questions about this notice, contact [contact information for health insurance issuer].''

(f) *Definition.* For the purposes of this section, reference to ''contraceptive'' services, benefits, or coverage includes contraceptive or sterilization items, procedures, or services, or related patient education or counseling, to the extent specified for purposes of § 147.130(a)(1)(iv).

(g) *Severability.* Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

■ 12. Add § 147.132 to read as follows:

§ 147.132 Religious exemptions in connection with coverage of certain preventive health services.

(a) *Objecting entities.* (1) Guidelines issued under § 147.130(a)(1)(iv) by the Health Resources and Services Administration must not provide for or support the requirement of coverage or payments for contraceptive services with respect to a group health plan established or maintained by an objecting organization, or health insurance coverage offered or arranged by an objecting organization, and thus the Health Resources and Service Administration will exempt from any guidelines' requirements that relate to the provision of contraceptive services:

(i) A group health plan and health insurance coverage provided in connection with a group health plan to the extent the non-governmental plan sponsor objects as specified in paragraph (a)(2) of this section. Such non-governmental plan sponsors include, but are not limited to, the following entities—

(A) A church, an integrated auxiliary of a church, a convention or association of churches, or a religious order.

(B) A nonprofit organization.

(C) A closely held for-profit entity.

(D) A for-profit entity that is not closely held.

(E) Any other non-governmental employer.

(ii) An institution of higher education as defined in 20 U.S.C. 1002 in its arrangement of student health insurance coverage, to the extent that institution objects as specified in paragraph (a)(2) of this section. In the case of student health insurance coverage, this section is applicable in a manner comparable to its applicability to group health insurance coverage provided in connection with a group health plan established or maintained by a plan sponsor that is an employer, and references to ''plan participants and beneficiaries'' will be interpreted as references to student enrollees and their covered dependents; and

(iii) A health insurance issuer offering group or individual insurance coverage to the extent the issuer objects as specified in paragraph (a)(2) of this section. Where a health insurance issuer providing group health insurance coverage is exempt under this paragraph (a)(1)(iii), the plan remains subject to any requirement to provide coverage for contraceptive services under Guidelines issued under § 147.130(a)(1)(iv) unless it is also exempt from that requirement.

(2) The exemption of this paragraph (a) will apply to the extent that an entity described in paragraph (a)(1) of this section objects to its establishing, maintaining, providing, offering, or arranging (as applicable) coverage, payments, or a plan that provides coverage or payments for some or all contraceptive services, based on its sincerely held religious beliefs.

(b) *Objecting individuals.* Guidelines issued under § 147.130(a)(1)(iv) by the Health Resources and Services Administration must not provide for or support the requirement of coverage or payments for contraceptive services with respect to individuals who object as specified in this paragraph (b), and nothing in § 147.130(a)(1)(iv), 26 CFR 54.9815–2713(a)(1)(iv), or 29 CFR 2590.715–2713(a)(1)(iv) may be construed to prevent a willing health insurance issuer offering group or individual health insurance coverage, and as applicable, a willing plan sponsor of a group health plan, from offering a separate benefit package option, or a separate policy, certificate or contract of insurance, to any individual who objects to coverage or payments for some or all contraceptive services based on sincerely held religious beliefs.

(c) *Definition.* For the purposes of this section, reference to ''contraceptive'' services, benefits, or coverage includes contraceptive or sterilization items, procedures, or services, or related patient education or counseling, to the extent specified for purposes of § 147.130(a)(1)(iv).

(d) *Severability.* Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

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Part III

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Internal Revenue Service

26 CFR Part 54

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2590

Department of Health and Human Services

45 CFR Part 147

Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD–9828]

RIN 1545–BN91

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB84

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 147

[CMS–9925–IFC]

RIN 0938–AT46

Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; and Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Interim final rules with request for comments.

SUMMARY: The United States has a long history of providing conscience protections in the regulation of health care for entities and individuals with objections based on religious beliefs or moral convictions. These interim final rules expand exemptions to protect moral convictions for certain entities and individuals whose health plans are subject to a mandate of contraceptive coverage through guidance issued pursuant to the Patient Protection and Affordable Care Act. These rules do not alter the discretion of the Health Resources and Services Administration, a component of the United States Department of Health and Human Services, to maintain the guidelines requiring contraceptive coverage where no regulatorily recognized objection exists. These rules also provide certain morally objecting entities access to the voluntary ''accommodation'' process regarding such coverage. These rules do not alter multiple other Federal programs that provide free or subsidized contraceptives for women at risk of unintended pregnancy.

DATES:

Effective date: These interim final rules are effective on October 6, 2017.

Comment date: Written comments on these interim final rules are invited and must be received by December 5, 2017.

ADDRESSES: Written comments may be submitted to the Department of Health and Human Services as specified below. Any comment that is submitted will be shared with the Department of Labor and the Department of the Treasury, and will also be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously. Comments, identified by ''Preventive Services,'' may be submitted one of four ways (please choose only one of the ways listed)

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9925–IFC, 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–9925–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Comments received will be posted without change to *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Wu (310) 492–4305 or *marketreform@cms.hhs.gov* for Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS), Amber Rivers or Matthew Litton, Employee Benefits Security Administration (EBSA), Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–5500.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*www.dol.gov/ebsa*). Information from HHS on private health insurance coverage can be found on CMS's Web site (*www.cms.gov/cciio*), and information on health care reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the context of legal requirements touching on certain sensitive health care issues—including health coverage of contraceptives—Congress has a consistent history of supporting conscience protections for moral convictions alongside protections for religious beliefs, including as part of its efforts to promote access to health services.[1] Against that backdrop,

[1] *See, for example,* 42 U.S.C. 300a–7 (protecting individuals and health care entities from being required to provide or assist sterilizations, abortions, or other lawful health services if it would violate their ''religious beliefs or moral convictions''); 42 U.S.C. 238n (protecting individuals and entities that object to abortion); Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d) (Departments of Labor, HHS,

Congress granted the Health Resources and Services Administration (HRSA), a component of the United States Department of Health and Human Services (HHS), discretion under the Patient Protection and Affordable Care Act to specify that certain group health plans and health insurance issuers shall cover, ''with respect to women, such additional preventive care and screenings . . . as provided for in comprehensive guidelines supported by'' HRSA (the ''Guidelines''). Public Health Service Act section 2713(a)(4). HRSA exercised that discretion under the last Administration to require health coverage for, among other things, certain contraceptive services,[2] while the administering agencies—the Departments of Health and Human Services, Labor, and the Treasury (collectively, ''the Departments''),[3] exercised both the discretion granted to HHS through HRSA, its component, in PHS Act section 2713(a)(4), and the authority granted to the Departments as administering agencies (26 U.S.C. 9833; 29 U.S.C. 1191c; 42 U.S.C. 300gg–92) to issue regulations to guide HRSA in carrying out that provision. Through rulemaking, including three interim final rules, the Departments exempted and accommodated certain religious objectors, but did not offer an exemption or accommodation to any group possessing non-religious moral objections to providing coverage for some or all contraceptives. Many individuals and entities challenged the contraceptive coverage requirement and regulations (hereinafter, the ''contraceptive Mandate,'' or the ''Mandate'') as being inconsistent with various legal protections. These challenges included lawsuits brought by some non-religious organizations with sincerely held moral convictions inconsistent with providing coverage for some or all contraceptive services, and those cases continue to this day. Various public comments were also submitted asking the Departments to protect objections based on moral convictions.

The Departments have recently exercised our discretion to reevaluate these exemptions and accommodations. This evaluation includes consideration of various factors, such as: The interests served by the existing Guidelines, regulations, and accommodation process;[4] the extensive litigation; Executive Order 13798, ''Promoting Free Speech and Religious Liberty'' (May 4, 2017); Congress' history of providing protections for moral convictions alongside religious beliefs regarding certain health services (including contraception, sterilization, and items or services believed to involve abortion); the discretion afforded under PHS Act section 2713(a)(4); the structure and intent of that provision in the broader context of section 2713 and the Patient Protection and Affordable Care Act; and the history of the regulatory process and comments submitted in various requests for public comments (including in the Departments' 2016 Request for Information). Elsewhere in this issue of the **Federal Register**, the Departments published, contemporaneously with these interim final rules, companion interim final rules expanding exemptions to protect sincerely held religious beliefs in the context of the contraceptive Mandate.

In light of these considerations, the Departments issue these interim final rules to better balance the Government's interest in promoting coverage for contraceptive and sterilization services with the Government's interests in providing conscience protections for individuals and entities with sincerely held moral convictions in certain health care contexts, and in minimizing burdens imposed by our regulation of the health insurance market.

A. The Affordable Care Act

Collectively, the Patient Protection and Affordable Care Act (Pub. L. 111–148), enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), enacted on March 30, 2010, are known as the Affordable Care Act. In signing the Affordable Care Act, President Obama issued Executive Order 13535 (March 24, 2010), which declared that, ''[u]nder the Act, longstanding Federal laws to protect conscience (such as the Church Amendment, 42 U.S.C. 300a–7, and the Weldon Amendment, section 508(d)(1) of Pub. L. 111–8) remain intact'' and that ''[n]umerous executive agencies have a role in ensuring that these restrictions are enforced, including the Department of Health and Human Services (HHS).'' Those laws protect objections based on moral convictions in addition to religious beliefs.

The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. In addition, the Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act of 1974 (ERISA) and section 9815(a)(1) to the Internal Revenue Code (Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and thereby make them applicable to certain group health plans regulated under ERISA or the Code. The sections of the PHS Act incorporated into ERISA and the Code are sections 2701 through 2728 of the PHS Act.

These interim final rules concern section 2713 of the PHS Act. Where it applies, section 2713(a)(4) of the PHS

and Education, and Related Agencies Appropriations Act), Public Law 115–31 (protecting any ''health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan'' in objecting to abortion for any reason); *Id.* at Div. C, Title VIII, Sec. 808 (regarding any requirement of ''the provision of contraceptive coverage by health insurance plans'' in the District of Columbia, ''it is the intent of Congress that any legislation enacted on such issue should include a 'conscience clause' which provides exceptions for religious beliefs and moral convictions.''); *Id.* at Div. C, Title VII, Sec. 726(c) (Financial Services and General Government Appropriations Act) (protecting individuals who object to prescribing or providing contraceptives contrary to their ''religious beliefs or moral convictions''); *Id.* at Div. I, Title III (Department of State, Foreign Operations, and Related Programs Appropriations Act) (protecting applicants for family planning funds based on their ''religious or conscientious commitment to offer only natural family planning''); 42 U.S.C. 290bb–36 (prohibiting the statutory section from being construed to require suicide related treatment services for youth where the parents or legal guardians object based on ''religious beliefs or moral objections''); 42 U.S.C. 1395w–22(j)(3)(B) (protecting against forced counseling or referrals in Medicare Choice, now Medicare Advantage, managed care plans with respect to objections based on ''moral or religious grounds''); 42 U.S.C. 1396a(w)(3) (ensuring particular Federal law does not infringe on ''conscience'' as protected in State law concerning advance directives); 42 U.S.C. 1396u–2(b)(3) (protecting against forced counseling or referrals in Medicaid managed care plans with respect to objections based on ''moral or religious grounds''); 42 U.S.C. 2996f(b) (protecting objection to abortion funding in legal services assistance grants based on ''religious beliefs or moral convictions''); 42 U.S.C. 14406 (protecting organizations and health providers from being required to inform or counsel persons pertaining to assisted suicide); 42 U.S.C. 18023 (blocking any requirement that issuers or exchanges must cover abortion); 42 U.S.C. 18113 (protecting health plans or health providers from being required to provide an item or service that helps cause assisted suicide); *see also* 8 U.S.C. 1182(g) (protecting vaccination objections by ''aliens'' due to ''religious beliefs or moral convictions''); 18 U.S.C. 3597 (protecting objectors to participation in Federal executions based on ''moral or religious convictions''); 20 U.S.C. 1688 (prohibiting sex discrimination law to be used to require assistance in abortion for any reason); 22 U.S.C. 7631(d) (protecting entities from being required to use HIV/AIDS funds contrary to their ''religious or moral objection'').

[2] This document's references to ''contraception,'' ''contraceptive,'' ''contraceptive coverage,'' or ''contraceptive services'' generally includes contraceptives, sterilization, and related patient education and counseling, unless otherwise indicated.

[3] Note, however, that in sections under headings listing only two of the three Departments, the term ''Departments'' generally refers only to the two Departments listed in the heading.

[4] In this IFR, we generally use ''accommodation'' and ''accommodation process'' interchangeably.

Act requires coverage without cost sharing for ''such additional'' women's preventive care and screenings ''as provided for'' and ''supported by'' guidelines developed by HRSA/HHS. The Congress did not specify any particular additional preventive care and screenings with respect to women that HRSA could or should include in its Guidelines, nor did Congress indicate whether the Guidelines should include contraception and sterilization.

The Departments have consistently interpreted section 2713(a)(4)'s of the PHS Act grant of authority to include broad discretion to decide the extent to which HRSA will provide for and support the coverage of additional women's preventive care and screenings in the Guidelines. In turn, the Departments have interpreted that discretion to include the ability to exempt entities from coverage requirements announced in HRSA's Guidelines. That interpretation is rooted in the text of section 2713(a)(4) of the PHS Act, which allows HRSA to decide the extent to which the Guidelines will provide for and support the coverage of additional women's preventive care and screenings.

Accordingly, the Departments have consistently interpreted section 2713(a)(4) of the PHS Act reference to ''comprehensive guidelines supported by the Health Resources and Services Administration for purposes of this paragraph'' to grant HRSA authority to develop such Guidelines. And because the text refers to Guidelines ''supported by the Health Resources and Services Administration for purposes of this paragraph,'' the Departments have consistently interpreted that authority to afford HRSA broad discretion to consider the requirements of coverage and cost-sharing in determining the nature and extent of preventive care and screenings recommended in the guidelines. (76 FR 46623). As the Departments have noted, these Guidelines are different from ''the other guidelines referenced in section 2713(a), which pre-dated the Affordable Care Act and were originally issued for purposes of identifying the non-binding recommended care that providers should provide to patients.'' *Id.* Guidelines developed as nonbinding recommendations for care implicate significantly different legal and policy concerns than guidelines developed for a mandatory coverage requirement. To guide HRSA in exercising the discretion afforded to it in section 2713(a)(4), the Departments have previously promulgated regulations defining the scope of permissible religious exemptions and accommodations for such guidelines. (45 CFR 147.131). The interim final rules set forth herein are a necessary and appropriate exercise of the authority delegated to the Departments as administrators of the statutes. (26 U.S.C. 9833; 29 U.S.C. 1191c; 42 U.S.C. 300gg–92).

Our interpretation of section 2713(a)(4) of the PHS Act is confirmed by the Affordable Care Act's statutory structure. The Congress did not intend to require entirely uniform coverage of preventive services. (76 FR 46623). To the contrary, Congress carved out an exemption from section 2713 for grandfathered plans. This exemption is not applicable to many of the other provisions in Title I of the Affordable Care Act—provisions previously referred to by the Departments as providing ''particularly significant protections.'' (75 FR 34540). Those provisions include: Section 2704, which prohibits preexisting condition exclusions or other discrimination based on health status in group health coverage; section 2708, which prohibits excessive waiting periods (as of January 1, 2014); section 2711, which relates to lifetime limits; section 2712, which prohibits rescissions of health insurance coverage; section 2714, which extends dependent coverage until age 26; and section 2718, which imposes a medical loss ratio on health insurance issuers in the individual and group markets (for insured coverage), or requires them to provide rebates to policyholders. (75 FR 34538, 34540, 34542). Consequently, of the 150 million nonelderly people in America with employer-sponsored health coverage, approximately 25.5 million are estimated to be enrolled in grandfathered plans not subject to section 2713 of the PHS Act.[5] As the Supreme Court observed, ''there is no legal requirement that grandfathered plans ever be phased out.'' *Burwell* v. *Hobby Lobby Stores, Inc.,* 134 S. Ct. 2751, 2764 n.10 (2014).

The Departments' interpretation of section 2713(a)(4) of the PHS Act to permit HRSA to establish exemptions from the Guidelines, and of the Departments' own authority as administering agencies to guide HRSA in establishing such exemptions, is also consistent with Executive Order 13535. That order, issued upon the signing of the Affordable Care Act, specified that ''longstanding Federal laws to protect conscience . . . remain intact,'' including laws that protect religious beliefs and moral convictions from certain requirements in the health care context. Although the text of Executive Order 13535 does not require the expanded exemptions issued in these interim final rules, the expanded exemptions are, as explained below, consistent with longstanding Federal laws to protect conscience regarding certain health matters, and are consistent with the intent that the Affordable Care Act would be implemented in consideration of the protections set forth in those laws.

B. The Regulations Concerning Women's Preventive Services

On July 19, 2010, the Departments issued interim final rules implementing section 2713 of the PHS Act (75 FR 41726). Those interim final rules charged HRSA with developing the Guidelines authorized by section 2713(a)(4) of the PHS Act.

1. The Institute of Medicine Report

In developing the Guidelines, HRSA relied on an independent report from the Institute of Medicine (IOM, now known as the National Academy of Medicine) on women's preventive services, issued on July 19, 2011, ''Clinical Preventive Services for Women, Closing the Gaps'' (IOM 2011). The IOM's report was funded by the HHS Office of the Assistant Secretary for Planning and Evaluation, pursuant to a funding opportunity that charged the IOM to conduct a review of effective preventive services to ensure women's health and well-being.[6]

The IOM made a number of recommendations with respect to women's preventive services. As relevant here, the IOM recommended that the Guidelines cover the full range of Food and Drug Administration (FDA)-approved contraceptive methods, sterilization procedures, and patient education and counseling for women with reproductive capacity. Because FDA includes in the category of ''contraceptives'' certain drugs and devices that may not only prevent conception (fertilization), but may also prevent implantation of an embryo,[7] the IOM's recommendation included

[5] Kaiser Family Foundation & Health Research & Educational Trust, ''Employer Health Benefits, 2017 Annual Survey,'' available at *http://files.kff.org/attachment/Report-Employer-Health-Benefits-Annual-Survey-2017.*

[6] Because section 2713(a)(4) of the PHS Act specifies that the HRSA Guidelines shall include preventive care and screenings ''with respect to women,'' the Guidelines exclude services relating to a man's reproductive capacity, such as vasectomies and condoms.

[7] FDA's guide ''Birth Control: Medicines To Help You,'' specifies that various approved contraceptives, including Levonorgestrel, Ulipristal Acetate, and IUDs, work mainly by preventing fertilization and ''may also work . . . by preventing attachment (implantation) to the womb (uterus)'' of a human embryo after fertilization. Available at *https://www.fda.gov/forconsumers/byaudience/forwomen/freepublications/ucm313215.htm.*

several contraceptive methods that many persons and organizations believe are abortifacient—that is, as causing early abortion—and which they conscientiously oppose for that reason distinct from whether they also oppose contraception or sterilization. One of the 16 members of the IOM committee, Dr. Anthony LoSasso, a Professor at the University of Illinois at Chicago School of Public Health, wrote a formal dissenting opinion. He stated that the IOM committee did not have sufficient time to evaluate fully the evidence on whether the use of preventive services beyond those encompassed by section 2713(a)(1) through (3) of the PHS Act leads to lower rates of disability or disease and increased rates of well-being, such that the IOM should recommend additional services to be included under Guidelines issued under section 2713(a)(4) of the PHS Act. He further stated that ''the recommendations were made without high quality, systematic evidence of the preventive nature of the services considered,'' and that ''the committee process for evaluation of the evidence lacked transparency and was largely subject to the preferences of the committee's composition. Troublingly, the process tended to result in a mix of objective and subjective determinations filtered through a lens of advocacy.'' He also raised concerns that the committee did not have time to develop a framework for determining whether coverage of any given preventive service leads to a reduction in healthcare expenditure.[8] IOM 2011 at 231–32. In its response to Dr. LoSasso, the other 15 committee members stated in part that ''At the first committee meeting, it was agreed that cost considerations were outside the scope of the charge, and that the committee should not attempt to duplicate the disparate review processes used by other bodies, such as the USPSTF, ACIP, and Bright Futures. HHS, with input from this committee, may consider other factors including cost in its development of coverage decisions.''

2. HRSA's 2011 Guidelines and the Departments' Second Interim Final Rules

On August 1, 2011, HRSA released onto its Web site its Guidelines for women's preventive services, adopting the recommendations of the IOM. *https://www.hrsa.gov/womensguidelines/* The Guidelines included coverage for all FDA-approved contraceptives, sterilization procedures, and related patient education and counseling for women with reproductive capacity, as prescribed by a health care provider (hereinafter ''the Mandate'').

In administering this Mandate, on August 1, 2011, the Departments promulgated interim final rules amending our 2010 interim final rules. (76 FR 46621) (2011 interim final rules). The 2011 interim final rules specified that HRSA has the authority to establish exemptions from the contraceptive coverage requirement for certain group health plans established or maintained by certain religious employers and for health insurance coverage provided in connection with such plans.[9] The 2011 interim final rules only offered the exemption to a narrow scope of employers, and only if they were religious. As the basis for adopting that limited definition of religious employer, the 2011 interim final rules stated that they relied on the laws of some ''States that exempt certain religious employers from having to comply with State law requirements to cover contraceptive services.'' (76 FR 46623). Several comments were submitted asking that the exemption include those who object to contraceptive coverage based on non-religious moral convictions, including pro-life, non-profit advocacy organizations.[10]

3. The Departments' Subsequent Rulemaking on the Accommodation and Third Interim Final Rules

Final regulations issued on February 10, 2012, adopted the definition of ''religious employer'' in the 2011 interim final rules without modification (2012 final regulations).[11] (77 FR 8725). The exemption did not require exempt employers to file any certification form or comply with any other information collection process.

Contemporaneously with the issuance of the 2012 final regulations, HHS—with the agreement of the Department of Labor (DOL) and the Department of the Treasury—issued guidance establishing a temporary safe harbor from enforcement of the contraceptive coverage requirement by the Departments with respect to group health plans established or maintained by certain nonprofit organizations with religious objections to contraceptive coverage (and the group health insurance coverage provided in connection with such plans).[12] The temporary safe harbor did not include nonprofit organizations that had an objection to contraceptives based on moral convictions but not religious beliefs, nor did it include for-profit entities of any kind. The Departments stated that, during the temporary safe harbor, the Departments would engage in rulemaking to achieve ''two goals—providing contraceptive coverage without cost-sharing to individuals who want it and accommodating non-exempted, nonprofit organizations' religious objections to covering contraceptive services.'' (77 FR 8727).

On March 21, 2012, the Departments published an advance notice of proposed rulemaking (ANPRM) that described possible approaches to achieve those goals with respect to religious nonprofit organizations, and solicited public comments on the same. (77 FR 16501). Following review of the comments on the ANPRM, the Departments published proposed regulations on February 6, 2013 (2013 NPRM) (78 FR 8456).

The 2013 NPRM proposed to expand the definition of ''religious employer'' for purposes of the religious employer exemption. Specifically, it proposed to require only that the religious employer be organized and operate as a nonprofit entity and be referred to in section 6033(a)(3)(A)(i) or (iii) of the Code, eliminating the requirements that a religious employer—(1) have the inculcation of religious values as its purpose; (2) primarily employ persons who share its religious tenets; and (3) primarily serve persons who share its religious tenets. The proposed expanded

[8] The Departments do not relay these dissenting remarks as an endorsement of the remarks, but to describe the history of the Guidelines, which includes this part of the report that IOM provided to HRSA.

[9] The 2011 amended interim final rules were issued and effective on August 1, 2011, and published in the **Federal Register** on August 3, 2011. (76 FR 46621).

[10] *See, for example,* Americans United for Life (''AUL'') Comment on CMA–9992–IFC2 at 10 (Nov. 1, 2011), available at *http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0023-59496.*

[11] The 2012 final regulations were published on February 15, 2012 (77 FR 8725).

[12] Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans, and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code, issued on February 10, 2012, and reissued on August 15, 2012. Available at: *http://www.lb7.uscourts.gov/documents/12cv3932.pdf.* The guidance, as reissued on August 15, 2012, clarified, among other things, that plans that took some action before February 10, 2012, to try, without success, to exclude or limit contraceptive coverage were not precluded from eligibility for the safe harbor. The temporary enforcement safe harbor was also available to insured student health insurance coverage arranged by nonprofit institutions of higher education with religious objections to contraceptive coverage that met the conditions set forth in the guidance. See final rule entitled ''Student Health Insurance Coverage'' published March 21, 2012 (77 FR 16457).

definition still encompassed only religious entities.

The 2013 NPRM also proposed to create a compliance process, which it called an accommodation, for group health plans established, maintained, or arranged by certain eligible nonprofit organizations that fell outside the houses of worship and integrated auxiliaries covered by section 6033(a)(3)(A)(i) or (iii) of the Code (and, thus, outside of the religious employer exemption). The 2013 NPRM proposed to define such eligible organizations as nonprofit entities that hold themselves out as religious, oppose providing coverage for certain contraceptive items on account of religious objections, and maintain a certification to this effect in their records. The 2013 NPRM stated, without citing a supporting source, that employees of eligible organizations ''may be less likely than'' employees of exempt houses of worship and integrated auxiliaries to share their employer's faith and opposition to contraception on religious grounds. (78 FR 8461). The 2013 NPRM therefore proposed that, in the case of an insured group health plan established or maintained by an eligible organization, the health insurance issuer providing group health insurance coverage in connection with the plan would provide contraceptive coverage to plan participants and beneficiaries without cost sharing, premium, fee, or other charge to plan participants or beneficiaries enrolled in the eligible organization's plan—and without any cost to the eligible organization.[13] In the case of a self-insured group health plan established or maintained by an eligible organization, the 2013 NPRM presented potential approaches under which the third party administrator of the plan would provide or arrange for contraceptive coverage to plan participants and beneficiaries. The proposed accommodation process was not to be offered to non-religious nonprofit organizations, nor to any for-profit entities. Public comments again included the request that exemptions encompass objections to contraceptive coverage based on moral convictions and not just based on religious beliefs.[14] On August 15, 2012, the Departments extended our temporary safe harbor until the first plan year beginning on or after August 1, 2013.

The Departments published final regulations on July 2, 2013 (July 2013 final regulations) (78 FR 39869). The July 2013 final regulations finalized the expansion of the exemption for houses of worship and their integrated auxiliaries. Although some commenters had suggested that the exemption be further expanded, the Departments declined to adopt that approach. The July 2013 regulations stated that, because employees of objecting houses of worship and integrated auxiliaries are relatively likely to oppose contraception, exempting those organizations ''does not undermine the governmental interests furthered by the contraceptive coverage requirement.'' (78 FR 39874). However, like the 2013 NPRM, the July 2013 regulations assumed that ''[h]ouses of worship and their integrated auxiliaries that object to contraceptive coverage on religious grounds are more likely than other employers to employ people of the same faith who share the same objection'' to contraceptives. *Id.*

The July 2013 regulation also finalized an accommodation for eligible organizations, which were then defined to include solely organizations that are religious. Under the accommodation, an eligible organization was required to submit a self-certification to its group health insurance issuer or third party administrator, as applicable. Upon receiving that self-certification, the issuer or third party administrator would provide or arrange for payments for the contraceptive services to the plan participants and beneficiaries enrolled in the eligible organization's plan, without requiring any cost sharing on the part of plan participants and beneficiaries and without cost to the eligible organization. With respect to self-insured plans, the third party administrators (or issuers they contracted with) could receive reimbursements by reducing user fee payments (to Federally facilitated Exchanges) by the amounts paid out for contraceptive services under the accommodation, plus an allowance for certain administrative costs, as long as the HHS Secretary requests and an authorizing exception under OMB Circular No. A–25R is in effect.[15] With respect to fully insured group health plans, the issuer was expected to bear the cost of such payments,[16] and HHS intended to clarify in guidance that the issuer could treat those payments as an adjustment to claims costs for purposes of medical loss ratio and risk corridor program calculations. The Departments extended the temporary safe harbor again on June 20, 2013, to encompass plan years beginning on or after August 1, 2013, and before January 1, 2014.

4. Litigation Over the Mandate and the Accommodation Process

During the period when the Departments were publishing and modifying our regulations, organizations and individuals filed dozens of lawsuits challenging the Mandate. Plaintiffs included religious nonprofit organizations, businesses run by religious families, individuals, and others, including several non-religious organizations that opposed coverage of certain contraceptives under the Mandate on the basis of non-religious moral convictions. Religious for-profit entities won various court decisions leading to the Supreme Court's ruling in *Burwell* v. *Hobby Lobby Stores, Inc.* 134 S. Ct. 2751 (2014). The Supreme Court ruled against the Departments and held that, under the Religious Freedom Restoration Act of 1993 (RFRA), the Mandate could not be applied to the closely held for-profit corporations before the Court because their owners had religious objections to providing such coverage.[17]

On August 27, 2014, the Departments simultaneously issued a third set of interim final rules (August 2014 interim final rules) (79 FR 51092), and a notice of proposed rulemaking (August 2014 proposed rules) (79 FR 51118). The August 2014 interim final rules changed the accommodation process so that it could be initiated either by self-certification using EBSA Form 700 or through a notice informing the Secretary of HHS that an eligible organization had religious objections to coverage of all or a subset of contraceptive services (79 FR 51092). In response to *Hobby Lobby,* the August 2014 proposed rules extended the accommodation process to closely held for-profit entities with religious objections to contraceptive coverage, by including them in the definition of eligible organizations (79 FR 51118). Neither the August 2014 interim final rules nor the August 2014 proposed rules extended the exemption; neither added a certification requirement for

[13] The NPRM proposed to treat student health insurance coverage arranged by eligible organizations that are institutions of higher education in a similar manner.

[14] *See,for example,* AUL Comment on CMS–9968–P at 5 (Apr. 8, 2013), available at *http://www.regulations.gov/#!documentDetail;D=CMS-2012-0031-79115.*

[15] *See also* 45 CFR 156.50. Under the regulations, if the third party administrator does not participate in a Federally-facilitated Exchange as an issuer, it is permitted to contract with an insurer which does so participate, in order to obtain such reimbursement. The total contraceptive user fee adjustment for the 2015 benefit year was $33 million.

[16] ''[P]roviding payments for contraceptive services is cost neutral for issuers.'' (78 FR 39877).

[17] The Supreme Court did not decide whether RFRA would apply to publicly traded for-profit corporations. *See* 134 S. Ct. at 2774.

exempt entities; and neither encompassed objections based on non-religious moral convictions.

On July 14, 2015, the Departments finalized both the August 2014 interim final rules and the August 2014 proposed rules in a set of final regulations (the July 2015 final regulations) (80 FR 41318). (The July 2015 final regulations also encompassed issues related to other preventive services coverage.) The July 2015 final regulations allowed eligible organizations to submit a notice to HHS as an alternative to submitting the EBSA Form 700, but specified that such notice must include the eligible organization's name and an expression of its religious objection, along with the plan name, plan type, and name and contact information for any of the plan's third party administrators or health insurance issuers. The Departments indicated that such information represents the minimum information necessary for us to administer the accommodation process.

Meanwhile, a second series of legal challenges were filed by religious nonprofit organizations that stated the accommodation impermissibly burdened their religious beliefs because it utilized their health plans to provide services to which they objected on religious grounds, and it required them to submit a self-certification or notice. On November 6, 2015, the U.S. Supreme Court granted certiorari in seven similar cases under the title of a filing from the Third Circuit, *Zubik* v. *Burwell.* On May 16, 2016, the Supreme Court issued a per curiam opinion in *Zubik,* vacating the judgments of the Courts of Appeals—most of which had ruled in the Departments' favor—and remanding the cases ''in light of the substantial clarification and refinement in the positions of the parties'' that had been filed in supplemental briefs. 136 S. Ct. 1557, 1560 (2016). The Court stated that it anticipated that, on remand, the Courts of Appeals would ''allow the parties sufficient time to resolve any outstanding issues between them.'' *Id.* The Court also specified that ''the Government may not impose taxes or penalties on petitioners for failure to provide the relevant notice'' while the cases remained pending. *Id.* at 1561.

After remand, as indicated by the Departments in court filings, meetings were held between attorneys for the Government and for the plaintiffs in those cases. The Departments also issued a Request for Information (''RFI'') on July 26, 2016, seeking public comment on options for modifying the accommodation process in light of the supplemental briefing in *Zubik* and the Supreme Court's remand order. (81 FR 47741). Public comments were submitted in response to the RFI, during a comment period that closed on September 20, 2016. Those comments included the request that the exemption be expanded to include those who oppose the Mandate for either religious ''or moral'' reasons, consistent with various state laws (such as in Connecticut or Missouri) that protect objections to contraceptive coverage based on moral convictions.[18]

Beginning in 2015, lawsuits challenging the Mandate were also filed by various non-religious organizations with moral objections to contraceptive coverage. These organizations asserted that they believe some methods classified by FDA as contraceptives may have an abortifacient effect and therefore, in their view, are morally equivalent to abortion. These organizations have neither received an exemption from the Mandate nor do they qualify for the accommodation. For example, the organization that since 1974 has sponsored the annual March for Life in Washington, DC (March for Life), filed a complaint claiming that the Mandate violated the equal protection component of the Due Process Clause of the Fifth Amendment, and was arbitrary and capricious under the Administrative Procedure Act (APA). Citing, for example, (77 FR 8727), March for Life argued that the Departments' stated interests behind the Mandate were only advanced among women who ''want'' the coverage so as to prevent ''unintended'' pregnancy. March for Life contended that because it only hires employees who publicly advocate against abortion, including what they regard as abortifacient contraceptive items, the Departments' interests were not rationally advanced by imposing the Mandate upon it and its employees. Accordingly, March for Life contended that applying the Mandate to it (and other similarly situated organizations) lacked a rational basis and therefore doing so was arbitrary and capricious in violation of the APA. March for Life further contended that because the Departments concluded the government's interests were not undermined by exempting houses of worship and integrated auxiliaries (based on our assumption that such entities are relatively more likely than other religious nonprofits to have employees that share their views against contraception), applying the Mandate to March for Life or similar organizations that definitively hire only employees who oppose certain contraceptives lacked a rational basis and therefore violated their right of equal protection under the Due Process Clause.

March for Life's employees, who stated they were personally religious (although personal religiosity was not a condition of their employment), also sued as co-plaintiffs. They contended that the Mandate violates their rights under RFRA by making it impossible for them to obtain health insurance consistent with their religious beliefs, either from the plan March for Life wanted to offer them, or in the individual market, because the Departments offered no exemptions in either circumstance. Another non-religious nonprofit organization that opposed the Mandate's requirement to provide certain contraceptive coverage on moral grounds also filed a lawsuit challenging the Mandate. *Real Alternatives, Inc.* v. *Burwell,* 150 F. Supp. 3d 419 (M.D. Pa. 2015).

Challenges by non-religious nonprofit organizations led to conflicting opinions among the Federal courts. A district court agreed with the March for Life plaintiffs on the organization's equal protection claim and the employees' RFRA claims (not specifically ruling on the APA claim), and issued a permanent injunction against the Departments that is still in place. *March for Life* v. *Burwell,* 128 F. Supp. 3d 116 (D.D.C. 2015). The appeal in *March for Life* is pending and has been stayed since early 2016. In another case, Federal district and appellate courts in Pennsylvania disagreed with the reasoning from *March for Life* and ruled against claims brought by a similarly non-religious nonprofit employer and its religious employees. *Real Alternatives,* 150 F. Supp. 3d 419, *affirmed by* 867 F.3d 338 (3d Cir. 2017). One member of the appeals court panel in *Real Alternatives* dissented in part, stating he would have ruled in favor of the individual employee plaintiffs under RFRA. *Id.* at *18.

On December 20, 2016, HRSA updated the Guidelines via its Web site, *https://www.hrsa.gov/womensguidelines2016/index.html.* HRSA announced that, for plans subject to the Guidelines, the updated Guidelines would apply to the first plan year beginning after December 20, 2017. Among other changes, the updated Guidelines specified that the required contraceptive coverage includes follow-up care (for example, management and evaluation, as well as changes to, and removal or discontinuation of, the

[18] *See, for example, https://www.regulations.gov/document?D=CMS-2016-0123-54142; see also https://www.regulations.gov/document?D=CMS-2016-0123-54218* and *https://www.regulations.gov/document?D=CMS-2016-0123-46220.*

contraceptive method). They also specified, for the first time, that coverage should include instruction in fertility awareness-based methods for women desiring an alternative method of family planning. HRSA stated that, with the input of a committee operating under a cooperative agreement, HRSA would review and periodically update the Women's Preventive Services' Guidelines. The updated Guidelines did not alter the religious employer exemption or accommodation process, nor did they extend the exemption or accommodation process to organizations or individuals that oppose certain forms of contraception (and coverage thereof) on moral grounds.

On January 9, 2017, the Departments issued a document entitled, ''FAQs About Affordable Care Act Implementation Part 36.'' [19] The FAQ stated that, after reviewing comments submitted in response to the 2016 RFI and considering various options, the Departments could not find a way at that time to amend the accommodation so as to satisfy objecting eligible organizations while pursuing the Departments' policy goals. The Departments did not adopt the approach requested by certain commenters, cited above, to expand the exemption to include those who oppose the Mandate for moral reasons.

On May 4, 2017, the President issued Executive Order 13798, ''Promoting Free Speech and Religious Liberty.'' Section 3 of that order declares, ''Conscience Protections with Respect to Preventive-Care Mandate. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services shall consider issuing amended regulations, consistent with applicable law, to address conscience-based objections to the preventive-care mandate promulgated under section 300gg–13(a)(4) of title 42, United States Code.''

II. Expanded Exemptions and Accommodations for Moral Convictions

These interim final rules incorporate conscience protections into the contraceptive Mandate. They do so in part to bring the Mandate into conformity with Congress's long history of providing or supporting conscience protections in the regulation of sensitive health-care issues, cognizant that Congress neither required the Departments to impose the Mandate nor prohibited them from providing conscience protections if they did so. Specifically, these interim final rules expand exemptions to the contraceptive Mandate to protect certain entities and individuals that object to coverage of some or all contraceptives based on sincerely held moral convictions but not religious beliefs, and these rules make those exempt entities eligible for accommodations concerning the same Mandate.

A. Discretion To Provide Exemptions Under Section 2713(a)(4) of the PHS Act and the Affordable Care Act

The Departments have consistently interpreted HRSA's authority under section 2713(a)(4) of the PHS Act to allow for exemptions and accommodations to the contraceptive Mandate for certain objecting organizations. Section 2713(a)(4) of the PHS Act gives HRSA discretion to decide whether and in what circumstances it will support Guidelines providing for additional women's preventive services coverage. That authority includes HRSA's discretion to include contraceptive coverage in those Guidelines, but the Congress did not specify whether or to what extent HRSA should do so. Therefore, section 2713(a)(4) of the PHS Act allows HRSA to not apply the Guidelines to certain plans of entities or individuals with religious or moral objections to contraceptive coverage, and by not applying the Guidelines to them, to exempt those entities from the Mandate. These rules are a necessary and appropriate exercise of the authority of HHS, of which HRSA is a component, and of the authority delegated to the Departments collectively as administrators of the statutes. (26 U.S.C. 9833; 29 U.S.C. 1191c; 42 U.S.C. 300gg–92).

Our protection of conscience in these interim final rules is consistent with the structure and intent of the Affordable Care Act. The Affordable Care Act refrains from applying section 2713(a)(4) of the PHS Act to millions of women in grandfathered plans. In contrast, we anticipate that conscientious exemptions to the Mandate will impact a much smaller number of women. President Obama emphasized in signing the Affordable Care Act that ''longstanding Federal law to protect conscience''—laws with conscience protections encompassing moral (as well as religious) objections—specifically including (but not limited to) the Church Amendments (42 U.S.C. 300a–7), ''remain intact.'' Executive Order 13535. Nothing in the Affordable Care Act suggests Congress' intent to deviate from its long history, discussed below, of protecting moral convictions in particular health care contexts. The Departments' implementation of section 2713(a)(4) of the PHS Act with respect to contraceptive coverage is a context similar to those encompassed by many other health care conscience protections provided or supported by Congress. This Mandate concerns contraception and sterilization services, including items believed by some citizens to have an abortifacient effect—that is, to cause the destruction of a human life at an early stage of embryonic development. These are highly sensitive issues in the history of health care regulation and have long been shielded by conscience protections in the laws of the United States.

B. Congress' History of Providing Exemptions for Moral Convictions

In deciding the most appropriate way to exercise our discretion in this context, the Departments draw on nearly 50 years of statutory law and Supreme Court precedent discussing the protection of moral convictions in certain circumstances—particularly in the context of health care and health insurance coverage. Congress very recently expressed its intent on the matter of Government-mandated contraceptive coverage when it declared, with respect to the possibility that the District of Columbia would require contraceptive coverage, that ''it is the intent of Congress that any legislation enacted on such issue should include a 'conscience clause' which provides exceptions for religious beliefs and moral convictions.'' Consolidated Appropriations Act of 2017, Division C, Title VIII, Sec. 808, Public Law 115–31 (May 5, 2017). In support of these interim final rules, we consider it significant that Congress' most recent statement on the prospect of Government mandated contraceptive coverage specifically intends that a conscience clause be included to protect moral convictions.

The many statutes listed in Section I-Background under footnote 1, which show Congress' consistent protection of moral convictions alongside religious beliefs in the Federal regulation of health care, includes laws such as the 1973 Church Amendments, which we discuss at length below, all the way to the 2017 Consolidated Appropriations Act discussed above. Notably among those laws, the Congress has enacted protections for health plans or health care organizations in Medicaid or Medicare Advantage to object ''on moral or religious grounds'' to providing coverage of certain counseling or referral services. 42 U.S.C. 1395w–

[19] Available at: *https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-36.pdf* and *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ACA-FAQs-Part36_1-9-17-Final.pdf.*

22(j)(3)(B) (protecting against forced counseling or referrals in Medicare Choice, now Medicare Advantage, managed care plans with respect to objections based on ''moral or religious grounds''); 42 U.S.C. 1396u–2(b)(3) (protecting against forced counseling or referrals in Medicaid managed care plans with respect to objections based on ''moral or religious grounds''). The Congress has also protected individuals who object to prescribing or providing contraceptives contrary to their ''religious beliefs or moral convictions.'' Consolidated Appropriations Act of 2017, Division C, Title VII, Sec. 726(c) (Financial Services and General Government Appropriations Act), Public Law 115–31.

C. The Church Amendments' Protection of Moral Convictions

One of the most important and well-established federal statutes respecting conscientious objections in specific health care contexts was enacted over the course of several years beginning in 1973, initially as a response to court decisions raising the prospect that entities or individuals might be required to facilitate abortions or sterilizations. These sections of the United States Code are known as the Church Amendments, named after their primary sponsor Senator Frank Church (D–Idaho). The Church Amendments specifically provide conscience protections based on sincerely held moral convictions. Among other things, the amendments protect the recipients of certain Federal health funds from being required to perform, assist, or make their facilities available for abortions or sterilizations if they object ''on the basis of religious beliefs or moral convictions,'' and they prohibit recipients of certain Federal health funds from discriminating against any personnel ''because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions'' (42 U.S.C. 300a–7(b), (c)(1)). Later additions to the Church Amendments protect other conscientious objections, including some objections on the basis of moral conviction to ''any lawful health service,'' or to ''any part of a health service program.'' (42 U.S.C. 300a–7(c)(2), (d)). In contexts covered by those sections of the Church Amendments, the provision or coverage of certain contraceptives, depending on the circumstances, could constitute ''any lawful health service'' or a ''part of a health service program.'' As such, the protections provided by those provisions of the Church Amendments would encompass moral objections to contraceptive services or coverage.

The Church Amendments were enacted in the wake of the Supreme Court's decision in *Roe* v. *Wade,* 410 U.S. 113 (1973). Even though the Court in *Roe* required abortion to be legal in certain circumstances, *Roe* did not include, within that right, the requirement that other citizens must facilitate its exercise. Thus, *Roe* favorably quoted the proceedings of the American Medical Association House of Delegates 220 (June 1970), which declared ''Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally-held moral principles.'' 410 U.S. at 144 & n.38 (1973). Likewise in *Roe's* companion case, *Doe* v. *Bolton,* the Court observed that, under State law, ''a physician or any other employee has the right to refrain, for moral or religious reasons, from participating in the abortion procedure.'' 410 U.S. 179, 197–98 (1973). The Court said that these conscience provisions ''obviously . . . afford appropriate protection.'' *Id.* at 198. As an Arizona court later put it, ''a woman's right to an abortion or to contraception does not compel a private person or entity to facilitate either.'' *Planned Parenthood Ariz., Inc.* v. *Am. Ass'n of Pro-Life Obstetricians & Gynecologists,* 257 P.3d 181, 196 (Ariz. Ct. App. 2011).

The Congressional Record contains relevant discussions that occurred when the protection for moral convictions was first proposed in the Church Amendments. When Senator Church introduced the first of those amendments in 1973, he cited not only *Roe* v. *Wade* but also an instance where a Federal court had ordered a Catholic hospital to perform sterilizations. 119 Congr. Rec. S5717–18 (Mar. 27, 1973). After his opening remarks, Senator Adlai Stevenson III (D–IL) rose to ask that the amendment be changed to specify that it also protects objections to abortion and sterilization based on moral convictions on the same terms as it protects objections based on religious beliefs. The following excerpt of the Congressional Record is particularly relevant to this discussion:

> Mr. STEVENSON. Mr. President, first of all I commend the Senator from Idaho for bringing this matter to the attention of the Senate. I ask the Senator a question.
>
> One need not be of the Catholic faith or any other religious faith to feel deeply about the worth of human life. The protections afforded by this amendment run only to those whose religious beliefs would be offended by the necessity of performing or participating in the performance of certain medical procedures; others, for moral reasons, not necessarily for any religious belief, can feel equally as strong about human life. They too can revere human life.
>
> As mortals, we cannot with confidence say, when life begins. But whether it is life, or the potentiality of life, our moral convictions as well as our religious beliefs, warrant protection from this intrusion by the Government. Would, therefore, the Senator include moral convictions?
>
> Would the Senator consider an amendment on page 2, line 18 which would add to religious beliefs, the words ''or moral''?
>
> Mr. CHURCH. I would suggest to the Senator that perhaps his objective could be more clearly stated if the words ''or moral conviction'' were added after ''religious belief.'' I think that the Supreme Court in considering the protection we give religious beliefs has given comparable treatment to deeply held moral convictions. I would not be averse to amending the language of the amendment in such a manner. It is consistent with the general purpose. I see no reason why a deeply held moral conviction ought not be given the same treatment as a religious belief.
>
> Mr. STEVENSON. The Senator's suggestion is well taken. I thank him.

119 Congr. Rec. S5717–18.

As the debate proceeded, Senator Church went on to quote *Doe* v. *Bolton's* reliance on a Georgia statute that stated ''a physician or any other employee has the right to refrain, for moral or religious reasons, from participating in the abortion procedure.'' 119 Congr. Rec. at S5722 (quoting 410 U.S. at 197–98). Senator Church added, ''I see no reason why the amendment ought not also to cover doctors and nurses who have strong moral convictions against these particular operations.'' *Id.* Considering the scope of the protections, Senator Gaylord Nelson (D–WI) asked whether, ''if a hospital board, or whatever the ruling agency for the hospital was, a governing agency or otherwise, just capriciously—and not upon the religious or moral questions at all—simply said, 'We are not going to bother with this kind of procedure in this hospital,' would the pending amendment permit that?'' 119 Congr. Rec. at S5723. Senator Church responded that the amendment would not encompass such an objection. *Id.*

Senator James L. Buckley (C–NY), speaking in support of the amendment, added the following perspective:

> Mr. BUCKLEY. Mr. President, I compliment the Senator from Idaho for proposing this most important and timely amendment. It is timely in the first instance because the attempt has already been made to compel the performance of abortion and sterilization operations on the part of those who are fundamentally opposed to such procedures. And it is timely also because the

recent Supreme Court decisions will likely unleash a series of court actions across the United States to try to impose the personal preferences of the majority of the Supreme Court on the totality of the Nation.

I believe it is ironic that we should have this debate at all. Who would have predicted a year or two ago that we would have to guard against even the possibility that someone might be free [sic] [20] to participate in an abortion or sterilization against his will? Such an idea is repugnant to our political tradition. This is a Nation which has always been concerned with the right of conscience. It is the right of conscience which is protected in our draft laws. It is the right of conscience which the Supreme Court has quite properly expanded not only to embrace those young men who, because of the tenets of a particular faith, believe they cannot kill another man, but also those who because of their own deepest moral convictions are so persuaded.

I am delighted that the Senator from Idaho has amended his language to include the words ''moral conviction,'' because, of course, we know that this is not a matter of concern to any one religious body to the exclusion of all others, or even to men who believe in a God to the exclusion of all others. It has been a traditional concept in our society from the earliest times that the right of conscience, like the paramount right to life from which it is derived, is sacred.

119 Congr. Rec. at S5723.

In support of the same protections when they were debated in the U.S. House, Representative Margaret Heckler (R–MA) [21] likewise observed that ''the right of conscience has long been recognized in the parallel situation in which the individual's right to conscientious objector status in our selective service system has been protected'' and ''expanded by the Supreme Court to include moral conviction as well as formal religious belief.'' 119 Congr. Rec. H4148–49 (May 31, 1973). Rep. Heckler added, ''We are concerned here only with the right of moral conscience, which has always been a part of our national tradition.'' *Id.* at 4149.

These first of the Church Amendments, codified at 42 U.S.C. 300a–7(b) and (c)(1), passed the House 372–1, and were approved by the Senate 94–0. 119 Congr. Rec. at H4149; 119 Congr. Rec. S10405 (June 5, 1973). The subsequently adopted provisions that comprise the Church Amendments similarly extend protection to those organizations and individuals who object to the provision of certain services on the basis of their moral convictions. And, as noted above, subsequent statutes add protections for moral objections in many other situations. These include, for example:

- Protections for individuals and entities that object to abortion: See 42 U.S.C. 238n; 42 U.S.C. 18023; 42 U.S.C. 2996f(b); and Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d), Public Law 115–31;
- Protections for entities and individuals that object to providing or covering contraceptives: See id. at Div. C, Title VIII, Sec. 808; id. at Div. C, Title VII, Sec. 726(c) (Financial Services and General Government Appropriations Act); and id. at Div. I, Title III; and
- Protections for entities and individuals that object to performing, assisting, counseling, or referring as pertains to suicide, assisted suicide, or advance directives: See 42 U.S.C. 290bb–36; 42 U.S.C. 14406; 42 U.S.C. 18113; and 42 U.S.C. 1396a(w)(3).

The Departments believe that the intent behind Congress' protection of moral convictions in certain health care contexts, especially to protect entities and individuals from governmental coercion, supports our decision in these interim final rules to protect sincerely held moral convictions from governmental compulsion threatened by the contraceptive Mandate.

D. Court Precedents Relevant to These Expanded Exemptions

The legislative history of the protection of moral convictions in the first Church Amendments shows that Members of Congress saw the protection as being consistent with Supreme Court decisions. Not only did Senator Church cite the abortion case *Doe* v. *Bolton* as a parallel instance of conscience protection, but he also spoke of the Supreme Court generally giving ''comparable treatment to deeply held moral convictions.'' Both Senator Buckley and Rep. Heckler specifically cited the Supreme Court's protection of moral convictions in laws governing military service. Those legislators appear to have been referencing cases such as *Welsh* v. *United States,* 398 U.S. 333 (1970), which the Supreme Court decided just 3 years earlier.

Welsh involved what is perhaps the Government's paradigmatic compelling interest—the need to defend the nation by military force. The Court stated that, where the Government protects objections to military service based on ''religious training and belief,'' that protection would also extend to avowedly non-religious objections to war held with the same moral strength. *Id.* at 343. The Court declared, ''[i]f an individual deeply and sincerely holds beliefs that are purely ethical or moral in source and content but that nevertheless impose upon him a duty of conscience to refrain from participating in any war at any time, those beliefs certainly occupy in the life of that individual 'a place parallel to that filled by . . . God' in traditionally religious persons. Because his beliefs function as a religion in his life, such an individual is as much entitled to a 'religious' conscientious objector exemption . . . as is someone who derives his conscientious opposition to war from traditional religious convictions.''

The Departments look to the description of moral convictions in *Welsh* to help explain the scope of the protection provided in these interim final rules. Neither these interim final rules, nor the Church Amendments or other Federal health care conscience statutes, define ''moral convictions'' (nor do they define ''religious beliefs''). But in issuing these interim final rules, we seek to use the same background understanding of that term that is reflected in the Congressional Record in 1973, in which legislators referenced cases such as *Welsh* to support the addition of language protecting moral convictions. In protecting moral convictions parallel to religious beliefs, *Welsh* describes moral convictions warranting such protection as ones: (1) That the ''individual deeply and sincerely holds''; (2) ''that are purely ethical or moral in source and content; (3) ''but that nevertheless impose upon him a duty''; (4) and that ''certainly occupy in the life of that individual a place parallel to that filled by . . . God' in traditionally religious persons,'' such that one could say ''his beliefs function as a religion in his life.'' (398 U.S. at 339–40). As recited above, Senators Church and Nelson agreed that protections for such moral convictions would not encompass an objection that an individual or entity raises ''capriciously.'' Instead, along with the requirement that protected moral convictions must be ''sincerely held,'' this understanding cabins the protection of moral convictions in contexts where they occupy a place parallel to that filled by sincerely held religious beliefs in religious persons and organizations.

In the context of this particular Mandate, it is also worth noting that, in *Hobby Lobby,* Justice Ginsburg (joined, in this part of the opinion, by Justices Breyer, Kagan, and Sotomayor), cited Justice Harlan's opinion in *Welsh,* 398 U.S. at 357–58, in support of her statement that ''[s]eparating moral convictions from religious beliefs would be of questionable legitimacy.'' 134 S. Ct. at 2789 n.6. In quoting this passage, the Departments do not mean to suggest that all laws protecting only religious

[20] The Senator might have meant ''[forced] . . . against his will.''

[21] Rep. Heckler later served as the 15th Secretary of HHS, from March 1983 to December 1985.

beliefs constitute an illegitimate ''separat[ion]'' of moral convictions, nor do we assert that moral convictions must always be protected alongside religious beliefs; we also do not agree with Justice Harlan that distinguishing between religious and moral objections would violate the Establishment Clause. Instead, the Departments believe that, in the specific health care context implicated here, providing respect for moral convictions parallel to the respect afforded to religious beliefs is appropriate, draws from long-standing Federal Government practice, and shares common ground with Congress' intent in the Church Amendments and in later Federal conscience statutes that provide protections for moral convictions alongside religious beliefs in other health care contexts.

E. Conscience Protections in Regulations and Among the States

The tradition of protecting moral convictions in certain health contexts is not limited to Congress. Multiple federal regulations protect objections based on moral convictions in such contexts.[22] Other federal regulations have also applied the principle of respecting moral convictions alongside religious beliefs when they have determined that it is appropriate to do so in particular circumstances. The Equal Employment Opportunity Commission has consistently protected ''moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views'' alongside religious views under the ''standard [] developed in *United States* v. *Seeger,* 380 U.S. 163 (1965) and [*Welsh*].'' (29 CFR 1605.1). The Department of Justice has declared that, in cases of capital punishment, no officer or employee may be required to attend or participate if doing so ''is contrary to the moral or religious convictions of the officer or employee, or if the employee is a medical professional who considers such participation or attendance contrary to medical ethics.'' (28 CFR 26.5).[23]

Forty-five States have health care conscience protections covering objections to abortion, and several of those also cover sterilization or contraception.[24] Most of those State laws protect objections based on ''moral,'' ''ethical,'' or ''conscientious'' grounds in addition to ''religious'' grounds. Particularly in the case of abortion, some Federal and State conscience laws do not require any specified motive for the objection. (42 U.S.C. 238n). These various statutes and regulations reflect an important governmental interest in protecting moral convictions in appropriate health contexts.

The contraceptive Mandate implicates that governmental interest. Many persons and entities object to this Mandate in part because they consider some forms of FDA-approved contraceptives to be abortifacients and morally equivalent to abortion due to the possibility that some of the items may have the effect of preventing the implantation of a human embryo after fertilization. Based on our knowledge from the litigation, all of the current litigants asserting purely non-religious objections share this view, and most of the religious litigants do as well. The Supreme Court, in describing family business owners with religious objections, explained that ''[t]he owners of the businesses have religious objections to abortion, and according to their religious beliefs the four contraceptive methods at issue are abortifacients. If the owners comply with the HHS mandate, they believe they will be facilitating abortions.'' *Hobby Lobby,* 134 S. Ct. at 2751. Outside of the context of abortion, as cited above, Congress has also provided health care conscience protections pertaining to sterilization, contraception, and other health care services and practices.

F. Founding Principles

The Departments also look to guidance from the broader history of respect for conscience in the laws and founding principles of the United States. Members of Congress specifically relied on the American tradition of respect for conscience when they decided to protect moral convictions in health care. As quoted above, in supporting protecting conscience based on non-religious moral convictions, Senator Buckley declared ''[i]t has been a traditional concept in our society from the earliest times that the right of conscience, like the paramount right to life from which it is derived, is sacred.'' Rep. Heckler similarly stated that ''the right of moral conscience . . . has always been a part of our national tradition.'' This tradition is reflected, for example, in a letter President George Washington wrote saying that ''[t]he Citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy: A policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship.''[25] Thomas Jefferson similarly declared that ''[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority.''[26] Although these statements by Presidents Washington and Jefferson were spoken to religious congregations, and although religious and moral conscience were tightly intertwined for the Founders, they both reflect a broad principle of respect for conscience against government coercion. James Madison likewise called conscience ''the most sacred of all property,'' and proposed that the Bill of Rights should guarantee, in addition to protecting religious belief and worship, that ''the full and equal rights of conscience [shall not] be in any manner, or on any pretext infringed.''[27]

These Founding Era statements of general principle do not specify how they would be applied in a particular health care context. We do not suggest that the specific protections offered in this rule would also be required or necessarily appropriate in any other context that does not raise the specific concerns implicated by this Mandate. These interim final rules do not address in any way how the Government would balance its interests with respect to

[22] *See, for example,* 42 CFR 422.206 (declaring that the general Medicare Advantage rule ''does not require the MA plan to cover, furnish, or pay for a particular counseling or referral service if the MA organization that offers the plan—(1) Objects to the provision of that service on moral or religious grounds.''); 42 CFR 438.102 (declaring that information requirements do not apply ''if the MCO, PIHP, or PAHP objects to the service on moral or religious grounds''); 48 CFR 1609.7001 (''health plan sponsoring organizations are not required to discuss treatment options that they would not ordinarily discuss in their customary course of practice because such options are inconsistent with their professional judgment or ethical, moral or religious beliefs.''); 48 CFR 352.270–9 (''Non-Discrimination for Conscience'' clause for organizations receiving HIV or Malaria relief funds).

[23] *See also* 18 CFR 214.11 (where a law enforcement agency (LEA) seeks assistance in the investigation or prosecution of trafficking of persons, the reasonableness of the LEA's request will depend in part on ''[c]ultural, religious, or moral objections to the request'').

[24] According to the Guttmacher Institute, 45 states have conscience statutes pertaining to abortion (43 of which cover institutions), 18 have conscience statutes pertaining to sterilization (16 of which cover institutions), and 12 have conscience statutes pertaining to contraception (8 of which cover institutions). ''Refusing to Provide Health Services'' (June 1, 2017), available at *https://www.guttmacher.org/state-policy/explore/refusing-provide-health-services.*

[25] From George Washington to the Hebrew Congregation in Newport, Rhode Island (Aug. 18, 1790), available at *https://founders.archives.gov/documents/Washington/05-06-02-0135.*

[26] Letter to the Society of the Methodist Episcopal Church at New London, Connecticut (February 4, 1809), available at *https://founders.archives.gov/documents/Jefferson/99-01-02-9714.*

[27] James Madison, ''Essay on Property'' (March 29, 1792); First draft of the First Amendment, 1 Annals of Congress 434 (June 8, 1789).

other health services not encompassed by the contraceptive Mandate.[28] Instead we highlight this tradition of respect for conscience from our Founding Era to provide background support for the Departments' decision to implement section 2713(a)(4) of the PHS Act, while protecting conscience in the exercise of moral convictions. We believe that these interim final rules are consistent both with the American tradition of respect for conscience and with Congress' history of providing conscience protections in the kinds of health care matters involved in this Mandate.

G. Executive Orders Relevant to These Expanded Exemptions

Protecting moral convictions, as set forth in the expanded exemptions and accommodations of these rules, is consistent with recent executive orders. President Trump's Executive Order concerning this Mandate directed the Departments to consider providing protections, not specifically for ''religious'' beliefs, but for ''conscience.'' We interpret that term to include moral convictions and not just religious beliefs. Likewise, President Trump's first Executive Order, EO 13765, declared that ''the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the [ACA] shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.'' This Mandate imposes both a cost, fee, tax, or penalty, and a regulatory burden, on individuals and purchasers of health insurance that have moral convictions opposed to providing contraceptive coverage. These interim final rules exercise the Departments' discretion to grant exemptions from the Mandate to reduce and relieve regulatory burdens and promote freedom in the health care market.

H. Litigation Concerning the Mandate

The sensitivity of certain health care matters makes it particularly important for the Government to tread carefully when engaging in regulation concerning those areas, and to respect individuals and organizations whose moral convictions are burdened by Government regulations. Providing conscience protections advances the Affordable Care Act's goal of expanding health coverage among entities and individuals that might otherwise be reluctant to participate in the market. For example, the Supreme Court in *Hobby Lobby* declared that, if HHS requires owners of businesses to cover procedures that the owners ''could not in good conscience'' cover, such as abortion, ''HHS would effectively exclude these people from full participation in the economic life of the Nation.'' 134 S. Ct. at 2783. That would be a serious outcome. As demonstrated by litigation and public comments, various citizens sincerely hold moral convictions, which are not necessarily religious, against providing or participating in coverage of contraceptive items included in the Mandate, and some believe that some of those items may cause early abortions. The Departments wish to implement the contraceptive coverage Guidelines issued under section 2713(a)(4) of the PHS Act in a way that respects the moral convictions of our citizens so that they are more free to engage in ''full participation in the economic life of the Nation.'' These expanded exemptions do so by removing an obstacle that might otherwise lead entities or individuals with moral objections to contraceptive coverage to choose not to sponsor or participate in health plans if they include such coverage.

Among the lawsuits challenging the Mandate, two have been filed based in part on non-religious moral convictions. In one case, the Departments are subject to a permanent injunction requiring us to respect the non-religious moral objections of an employer. *See March for Life* v. *Burwell,* 128 F. Supp. 3d 116 (D.D.C. 2015). In the other case, an appeals court recently affirmed a district court ruling that allows the previous regulations to be imposed in a way that violates the moral convictions of a small nonprofit pro-life organization and its employees. *See Real Alternatives,* 2017 WL 3324690. Our litigation of these cases has led to inconsistent court rulings, consumed substantial governmental resources, and created uncertainty for objecting organizations, issuers, third party administrators, and employees and beneficiaries. The organizations that have sued seeking a moral exemption have all adopted moral tenets opposed to contraception and hire only employees who share this view. It is reasonable to conclude that employees of these organizations would therefore not benefit from the Mandate. As a result, subjecting this subset of organizations to the Mandate does not advance any governmental interest. The need to resolve this litigation and the potential concerns of similar entities, and our requirement to comply with permanent injunctive relief currently imposed in *March for Life,* provide substantial reasons for the Departments to protect moral convictions through these interim final rules. Even though, as discussed below, we assume the number of entities and individuals that may seek exemption from the Mandate on the basis of moral convictions, as these two sets of litigants did, will be small, we know from the litigation that it will not be zero. As a result, the Departments have taken these types of objections into consideration in reviewing our regulations. Having done so, we consider it appropriate to issue the protections set forth in these interim final rules. Just as Congress, in adopting the early provisions of the Church Amendments, viewed it as necessary and appropriate to protect those organizations and individuals with objections to certain health care services on the basis of moral convictions, so we, too, believe that ''our moral convictions as well as our religious beliefs, warrant protection from this intrusion by the Government'' in this situation.

I. The Departments' Rebalancing of Government Interests

For additional discussion of the Government's balance of interests concerning religious beliefs issued contemporaneously with these interim final rules, see the related document published by the Department elsewhere in this issue of the **Federal Register**. There, we acknowledge that the Departments have changed the policies and interpretations we previously adopted with respect to the Mandate and the governmental interests that underlying it, and we assert that we now believe the Government's legitimate interests in providing for contraceptive coverage do not require us to violate sincerely held religious beliefs while implementing the Guidelines. For parallel reasons, the Departments believe Congress did not set forth—and we do not possess—interests that require us to violate sincerely held moral convictions in the course of generally requiring contraceptive coverage. These changes in policy are

[28] As the Supreme Court stated in *Hobby Lobby,* the Court's decision concerns only the contraceptive Mandate, and should not be understood to hold that all insurance-coverage mandates, for example, for vaccinations or blood transfusions, must necessarily fail if they conflict with an employer's religious beliefs. Nor does the Court's opinion provide a shield for employers who might cloak illegal discrimination as a religious (or moral) practice. 134 S. Ct. at 2783.

within the Departments' authority. As the Supreme Court has acknowledged, ''[a]gencies are free to change their existing policies as long as they provide a reasoned explanation for the change.'' *Encino Motorcars, LLC* v. *Navarro,* 136 S. Ct. 2117, 2125 (2016). This ''reasoned analysis'' requirement does not demand that an agency ''demonstrate to a court's satisfaction that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates.'' *United Student Aid Funds, Inc.* v. *King,* 200 F. Supp. 3d 163, 169–70 (D.D.C. 2016) (citing *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009)); *see also New Edge Network, Inc.* v. *FCC,* 461 F.3d 1105, 1112–13 (9th Cir. 2006) (rejecting an argument that ''an agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance'').[29]

The Departments note that the exemptions created here, like the exemptions created by the last Administration, do not burden third parties to a degree that counsels against providing the exemptions. In addition to the apparent fact that many entities with non-religious moral objections to the Mandate appear to only hire persons that share those objections, Congress did not create a right to receive contraceptive coverage, and Congress explicitly chose not to impose the section 2713 requirements on grandfathered plans benefitting millions of people. Individuals who are unable to obtain contraceptive coverage through their employer-sponsored health plans because of the exemptions created in these interim final rules, or because of other exemptions to the Mandate, have other avenues for obtaining contraception, including through various other mechanisms by which the Government advances contraceptive coverage, particularly for low-income women, and which these interim final rules leave unchanged.[30] As the Government is under no constitutional obligation to fund contraception, *cf. Harris* v. *McRae,* 448 U.S. 297 (1980), even more so may the Government refrain from requiring private citizens to cover contraception for other citizens in violation of their moral convictions. *Cf. Rust* v. *Sullivan,* 500 U.S. 173, 192–93 (1991) (''A refusal to fund protected activity, without more, cannot be equated with the imposition of a 'penalty' on that activity.'').

The Departments acknowledge that coverage of contraception is an important and highly controversial issue, implicating many different views, as reflected for example in the public comments received on multiple rulemakings over the course of implementation of section 2713(a)(4) of the PHS Act. Our expansion of conscience protections for moral convictions, similar to protections contained in numerous statutes governing health care regulation, is not taken lightly. However, after reconsidering the interests served by the Mandate in this particular context, the objections raised, and the relevant Federal law, the Departments have determined that expanding the exemptions to include protections for moral convictions is a more appropriate administrative response than continuing to refuse to extend the exemptions and accommodations to certain entities and individuals for whom the Mandate violates their sincerely held moral convictions. Although the number of organizations and individuals that may seek to take advantage of these exemptions and accommodations may be small, we believe that it is important formally to codify such protections for objections based on moral conviction, given the long-standing recognition of such protections in health care and health insurance context in law and regulation and the particularly sensitive nature of these issues in the health care context. These interim final rules leave unchanged HRSA's authority to decide whether to include contraceptives in the women's preventive services Guidelines for entities that are not exempted by law, regulation, or the Guidelines. These rules also do not change the many other mechanisms by which the Government advances contraceptive coverage, particularly for low-income women.

III. Provisions of the Interim Final Rules With Comment Period

The Departments are issuing these interim final rules in light of the full history of relevant rulemaking (including 3 previous interim final rules), public comments, and the long-running litigation from non-religious moral objectors to the Mandate, as well as the information contained in the companion interim final rules issued elsewhere in this issue of the **Federal Register**. These interim final rules seek to resolve these matters by directing HRSA, to the extent it requires coverage for certain contraceptive services in its Guidelines, to afford an exemption to certain entities and individuals with sincerely held moral convictions by which they object to contraceptive or sterilization coverage, and by making the accommodation process available for certain organizations with such convictions.

For all of the reasons discussed and referenced above, the Departments have determined that the Government's interest in applying contraceptive coverage requirements to the plans of certain entities and individuals does not outweigh the sincerely held moral objections of those entities and individuals. Thus, these interim final rules amend the regulations amended in both the Departments' July 2015 final regulations and in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**.

These interim final rules expand those exemptions to include additional entities and persons that object based on sincerely held moral convictions. These rules leave in place HRSA's discretion to continue to require contraceptive and sterilization coverage where no objection specified in the regulations exists, and if section 2713 of the PHS Act otherwise applies. These interim final rules also maintain the existence of an accommodation process as a voluntary option for organizations with moral objections to contraceptive coverage, but consistent with our expansion of the exemption, we expand eligibility for the accommodation to include organizations with sincerely held moral convictions concerning contraceptive coverage. HRSA is simultaneously updating its Guidelines to reflect the requirements of these interim final rules.[31]

[29] *See also Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 863–64 (1984) (''The fact that the agency has adopted different definitions in different contexts adds force to the argument that the definition itself is flexible, particularly since Congress has never indicated any disapproval of a flexible reading of the statute.'')

[30] *See, for example,* Family Planning grants in 42 U.S.C. 300, *et seq.;* the Teenage Pregnancy Prevention Program, Public Law 112–74 (125 Stat 786, 1080); the Healthy Start Program, 42 U.S.C. 254c–8; the Maternal, Infant, and Early Childhood Home Visiting Program, 42 U.S.C. 711; Maternal and Child Health Block Grants, 42 U.S.C. 703; 42 U.S.C. 247b–12; Title XIX of the Social Security Act, 42 U.S.C. 1396, *et seq.;* the Indian Health Service, 25 U.S.C. 13, 42 U.S.C. 2001(a), & 25 U.S.C. 1601, *et seq.;* Health center grants, 42 U.S.C. 254b(e), (g), (h), & (i); the NIH Clinical Center, 42 U.S.C. 248; and the Personal Responsibility Education Program, 42 U.S.C. 713.

[31] *See https://www.hrsa.gov/womensguidelines/* and *https://www.hrsa.gov/womensguidelines2016/index.html.*

1. Exemption for Objecting Entities Based on Moral Convictions

In the new 45 CFR 147.133 as created by these interim final rules, we expand the exemption that was previously located in § 147.131(a), and that was expanded in § 147.132 by the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**.

With respect to employers that sponsor group health plans, § 147.133(a)(1) and (a)(1)(i) provide exemptions for certain employers that object to coverage of all or a subset of contraceptives or sterilization and related patient education and counseling based on sincerely held moral convictions.

For avoidance of doubt, the Departments wish to make clear that the expanded exemption in § 147.133(a) applies to several distinct entities involved in the provision of coverage to the objecting employer's employees. This explanation is consistent with how prior rules have worked by means of similar language. Section 147.133(a)(1) and (a)(1)(i), by specifying that ''[a] group health plan and health insurance coverage provided in connection with a group health plan'' is exempt ''to the extent the plan sponsor objects as specified in paragraph (a)(2),'' exempt the group health plans the sponsors of which object, and exempt their health insurance issuers in providing the coverage in those plans (whether or not the issuers have their own objections). Consequently, with respect to Guidelines issued under § 147.130(a)(1)(iv), or the parallel provisions in 26 CFR 54.9815–2713T(a)(1)(iv) and 29 CFR 2590.715–2713(a)(1)(iv), the plan sponsor, issuer, and plan covered in the exemption of that paragraph would face no penalty as a result of omitting contraceptive coverage from the benefits of the plan participants and beneficiaries.

Consistent with the restated exemption, exempt entities will not be required to comply with a self-certification process. Although exempt entities do not need to file notices or certifications of their exemption, and these interim final rules do not impose any new notice requirements on them, existing ERISA rules governing group health plans require that, with respect to plans subject to ERISA, a plan document must include a comprehensive summary of the benefits covered by the plan and a statement of the conditions for eligibility to receive benefits. Under ERISA, the plan document provides what benefits are provided to participants and beneficiaries under the plan and, therefore, if an objecting employer would like to exclude all or a subset of contraceptive services, it must ensure that the exclusion is clear in the plan document. Moreover, if there is a reduction in a covered service or benefit, the plan has to disclose that change to plan participants.[32] Thus, where an exemption applies and all or a subset of contraceptive services are omitted from a plan's coverage, otherwise applicable ERISA disclosures should reflect the omission of coverage in ERISA plans. These existing disclosure requirements serve to help provide notice to participants and beneficiaries of what ERISA plans do and do not cover. The Departments invite public comment on whether exempt entities, or others, would find value either in being able to maintain or submit a specific form of certification to claim their exemption, or in otherwise receiving guidance on a way to document their exemption.

The exemptions in § 147.133(a) apply ''to the extent'' of the objecting entities' sincerely held moral convictions. Thus, entities that hold a requisite objection to covering some, but not all, contraceptive items would be exempt with respect to the items to which they object, but not with respect to the items to which they do not object. Likewise, the requisite objection of a plan sponsor or institution of higher education in § 147.133(a)(1)(i) and (ii) exempts its group health plan, health insurance coverage offered by a health insurance issuer in connection with such plan, and its issuer in its offering of such coverage, but that exemption does not extend to coverage provided by that issuer to other group health plans where the plan sponsors have no qualifying objection. The objection of a health insurance issuer in § 147.133(a)(1)(iii) similarly operates only to the extent of its objection, and as otherwise limited as described below.

2. Exemption of Certain Plan Sponsors

The rules cover certain kinds of non-governmental employer plan sponsors with the requisite objections, and the rules specify which kinds of entities qualify for the exemption.

Under these interim final rules, the Departments do not limit the exemption with reference to nonprofit status as previous rules have done. Many of the federal health care conscience statutes cited above offer protections for the moral convictions of entities without regard to whether they operate as nonprofits or for-profit entities. In addition, a significant majority of states either impose no contraceptive coverage requirement, or offer broader exemptions than the exemption contained in the July 2015 final regulations.[33] States also generally protect moral convictions in health care conscience laws, and they often offer those protections whether or not an entity operates as a nonprofit.[34] Although the practice of states is by no means a limit on the discretion delegated to HRSA by the Affordable Care Act, nor is it a statement about what the Federal Government may do consistent with other protections or limitations in federal law, such state practice can be informative as to the viability of offering protections for conscientious objections in particularly sensitive health care contexts. In this case, the existence of many instances where conscience protections are offered, or no underlying mandate of this kind exists that could violate moral convictions, supports the Departments' decision to expand the Federal exemption concerning this Mandate as set forth in these interim final rules.

Section 147.133(a)(1)(i)(A) of the rules specifies that the exemption includes the plans of a plan sponsor that is a nonprofit organization with sincerely held moral convictions.

Section 147.133(a)(1)(i)(B) of the rules specifies that the exemption includes the plans of a plan sponsor that is a for-profit entity that has no publicly traded ownership interests (for this purpose, a publicly traded ownership interest is any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934).

Extending the exemption to certain for-profit entities is consistent with the Supreme Court's ruling in *Hobby Lobby,* which declared that a corporate entity is capable of possessing and pursuing non-pecuniary goals (in *Hobby Lobby,* religion), regardless of whether the entity operates as a nonprofit organization, and rejecting the

[32] *See, for example,* 29 U.S.C. 1022, 1024(b), 29 CFR 2520.102–2, 2520.102–3, & 2520.104b–3(d), and 29 CFR 2590.715–2715. *See also* 45 CFR 147.200 (requiring disclosure of the ''exceptions, reductions, and limitations of the coverage,'' including group health plans and group & individual issuers).

[33] *See* Guttmacher Institute, ''Insurance Coverage of Contraceptives'' (Aug. 1, 2017), available at *https://www.guttmacher.org/state-policy/explore/insurance-coverage-contraceptives.*

[34] *See, for example,* Guttmacher Institute, ''Refusing to Provide Health Services'' (Aug. 1, 2017), available at *https://www.guttmacher.org/state-policy/explore/refusing-provide-health-services.*

Departments' argument to the contrary. 134 S. Ct. 2768–75. Some reports and industry experts have indicated that not many for-profit entities beyond those that had originally brought suit have sought relief from the Mandate after *Hobby Lobby*.[35] The mechanisms for determining whether a company has adopted and holds certain principles or views, such as sincerely held moral convictions, is a matter of well-established State law with respect to corporate decision-making,[36] and the Departments expect that application of such laws would cabin the scope of this exemption.

The July 2015 final regulations extended the accommodation to for-profit entities only if they are closely held, by positively defining what constitutes a closely held entity. Any such positive definition runs up against the myriad state differences in defining such entities, and potentially intrudes into a traditional area of state regulation of business organizations. The Departments implicitly recognized the difficulty of defining closely held entities in the July 2015 final regulations when we adopted a definition that included entities that are merely ''substantially similar'' to certain specified parameters, and we allowed entities that were not sure if they met the definition to inquire with HHS; HHS was permitted to decline to answer the inquiry, at which time the entity would be deemed to qualify as an eligible organization. Instead of attempting to positively define closely held businesses for the purpose of this rule, the Departments consider it much more clear, effective, and preferable to define the category negatively by reference to one element of our previous definition, namely, that the entity has no publicly traded ownership interest (that is, any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934).

In this way, these interim final rules differ from the exemption provided to plan sponsors with objections based on sincerely held religious beliefs set forth in § 147.132(a)(1)—those extend to for-profit entities whether or not they are closely held or publicly traded. The Departments seek public comment on whether the exemption in § 147.133(a)(1)(i) for plan sponsors with moral objections to the Mandate should be finalized to encompass all of the types of plan sponsors covered by § 147.132(a)(1)(i), including publicly traded corporations with objections based on sincerely held moral convictions, and also non-federal governmental plan sponsors that may have objections based on sincerely held moral convictions.

In the case of particularly sensitive health care matters, several significant federal health care conscience statutes protect entities' moral objections without precluding publicly traded and governmental entities from using those protections. For example, the first paragraph of the Church Amendments provides certain protections for entities that object based on moral convictions to making their facilities or personnel available to assist in the performance of abortions or sterilizations, and the statute does not limit those protections based on whether the entities are publicly traded or governmental. (42 U.S.C. 300a–7(b)). Thus, under section 300a–7(b), a hospital in a publicly traded health system, or a local governmental hospital, could adopt sincerely held moral convictions by which it objects to providing facilities or personnel for abortions or sterilizations, and if the entity receives relevant funds from HHS specified by section 300a–7(b), the protections of that section would apply. The Coats-Snowe Amendment likewise provides certain protections for health care entities and postgraduate physician training programs that choose not to perform, refer for, or provide training for abortions, and the statute does not limit those protections based on whether the entities are publicly traded or governmental. (42 U.S.C. 238n).

The Weldon Amendment[37] provides certain protections for health care entities, hospitals, provider-sponsored organizations, health maintenance organizations, and health insurance plans that do not provide, pay for, provide coverage of, or refer for abortions, and the statute does not limit those protections based on whether the entity is publicly traded or governmental. The Affordable Care Act provides certain protections for any institutional health care entity, hospital, provider-sponsored organization, health maintenance organization, health insurance plan, or any other kind of health care facility, that does not provide any health care item or service furnished for the purpose of causing or assisting in causing assisted suicide, euthanasia, or mercy killing, and the statute similarly does not limit those protections based on whether the entity is publicly traded or governmental. (42 U.S.C. 18113).[38]

Sections 1395w–22(j)(3)(B) and 1396u–2(b)(3) of 42 U.S.C. protect organizations that offer Medicaid and Medicare Advantage managed care plans from being required to provide, reimburse for, or provide coverage of a counseling or referral service if they object to doing so on moral grounds, and those paragraphs do not further specify that publicly traded entities do not qualify for the protections. Congress' most recent statement on Government requirements of contraceptive coverage specified that, if the District of Columbia requires ''the provision of contraceptive coverage by health insurance plans,'' ''it is the intent of Congress that any legislation enacted on such issue should include a 'conscience clause' which provides exceptions for religious beliefs and moral convictions.'' Consolidated Appropriations Act of 2017, Division C, Title VIII, Sec. 808. Congress expressed no intent that such a conscience should be limited based on whether the entity is publicly traded.

At the same time, the Departments lack significant information about the need to extend the expanded exemption further. We have been subjected to litigation by nonprofit entities expressing objections to the Mandate based on non-religious moral convictions, and we have been sued by closely held for-profit entities expressing religious objections. This combination of different types of plaintiffs leads us to believe that there may be a small number of closely held for-profit entities that would seek to use an exemption to the contraceptive Mandate based on moral convictions. The fact that many closely held for-profit entities brought challenges to the Mandate has led us to offer protections that would include publicly traded entities with religious objections to the Mandate if such entities exist. But the combined lack of any lawsuits challenging the Mandate by for-profit entities with non-religious moral convictions, and of any lawsuits by any kind of publicly traded entity, leads us to not extend the expanded exemption in these interim final rules to publicly traded entities, but rather to invite public comment on whether to do so in

[35] See Jennifer Haberkorn, ''Two years later, few Hobby Lobby copycats emerge,'' *Politico* (Oct. 11, 2016), available at *http://www.politico.com/story/2016/10/obamacare-birth-control-mandate-employers-229627.*

[36] Although the Departments do not prescribe any form or notification, they would expect that such principles or views would have been adopted and documented in accordance with the laws of the jurisdiction under which they are incorporated or organized.

[37] Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d), Pub. L. 115–31.

[38] The lack of the limitation in this provision may be particularly relevant since it is contained in the same statute, the ACA, as the provision under which the Mandate—and these exemptions to the Mandate—are promulgated.

a way parallel to the protections set forth in § 147.132(a)(1)(i). We agree with the Supreme Court that it is improbable that many publicly traded companies with numerous ''unrelated shareholders—including institutional investors with their own set of stakeholders—would agree to run a corporation under the same religious beliefs'' (or moral convictions) and thereby qualify for the exemption. *Hobby Lobby,* 134 S. Ct. at 2774. We are also not aware of other types of plan sponsors (such as non-Federal governmental entities) that might possess moral objections to compliance with the Mandate, including whether some might consider certain contraceptive methods as having a possible abortifacient effect. Nevertheless, we would welcome any comments on whether such corporations or other plan sponsors exist and would benefit from such an exemption.

Despite our a lack of complete information, the Departments know that nonprofit entities have challenged the Mandate, and we assume that a closely held business might wish to assert non-religious moral convictions in objecting to the Mandate (although we anticipate very few if any will do so). Thus we have chosen in these interim final rules to include them in the expanded exemption and thereby remove an obstacle preventing such entities from claiming an exemption based on non-religious moral convictions. But we are less certain that we need to use these interim final rules to extend the expanded exemption for moral convictions to encompass other kinds of plan sponsors not included in the protections of these interim final rules. Therefore, with respect to plan sponsors not included in the expanded exemptions of § 147.133(a)(1)(i), and non-federal governmental plan sponsors that might have moral objections to the Mandate, we invite public comment on whether to include such entities when we finalize these rules at a later date.

The Departments further conclude that it would be inadequate to merely provide entities access to the accommodation process instead of to the exemption where those entities object to the Mandate based on sincerely held moral convictions. The Departments have stated in our regulations and court briefings that the existing accommodation with respect to self-insured plans requires contraceptive coverage as part of the same plan as the coverage provided by the employer, and operates in a way ''seamless'' to those plans. As a result, in significant respects, the accommodation process does not actually accommodate the objections of many entities. This has led many religious groups to challenge the accommodation in court, and we expect similar challenges would come from organizations objecting to the accommodation based on moral convictions if we offered them the accommodation but not an exemption. When we took that narrow approach with religious nonprofit entities it led to multiple cases in many courts that we needed to litigate to the Supreme Court various times. Although objections to the accommodation were not specifically litigated in the two cases brought by nonprofit non-religious organizations (because we have not even made them eligible for the accommodation), those organizations made it clear that they and their employees strongly oppose coverage of certain contraceptives in their plans and in connection with their plans.

3. Exemption for Institutions of Higher Education

The plans of institutions of higher education that arrange student health insurance coverage will be treated similarly to the way that plans of employers are treated for the purposes of such plans being exempt or accommodated based on moral convictions. These interim final rules specify, in § 147.133(a)(1)(ii), that the exemption is extended, in the case of institutions of higher education (as defined in 20 U.S.C. 1002), to their arrangement of student health insurance coverage, in a manner comparable to the applicability of the exemption for group health insurance coverage provided in connection with a group health plan established or maintained by a plan sponsor.

The Departments are not aware of institutions of higher education that arrange student coverage and object to the Mandate based on non-religious moral convictions. We have been sued by several institutions of higher education that arrange student coverage and object to the Mandate based on religious beliefs. We believe the existence of such entities with non-religious moral objections, or the possible formation of such entities in the future, is sufficiently possible so that we should provide protections for them in these interim final rules. But based on a lack of information about such entities, we assume that none will use the exemption concerning student coverage at this time.

4. Exemption for Issuers

These interim final rules extend the exemption, in § 147.133(a)(1)(iii), to health insurance issuers offering group or individual health insurance coverage that sincerely hold their own moral convictions opposed to providing coverage for contraceptive services.

As discussed above, where the exemption for plan sponsors or institutions of higher education applies, issuers are exempt under those sections with respect to providing coverage in those plans. The issuer exemption in § 147.133(a)(1)(iii) adds to that protection, but the additional protection operates in a different way than the plan sponsor exemption operates. The only plan sponsors, or in the case of individual insurance coverage, individuals, who are eligible to purchase or enroll in health insurance coverage offered by an exempt issuer that does not cover some or all contraceptive services are plan sponsors or individuals who themselves object and are otherwise exempt based on their objection (whether the objection is based on moral convictions, as set forth in these rules, or on religious beliefs, as set forth in exemptions created by the companion interim final rules published elsewhere in this issue of the **Federal Register**). Thus, the issuer exemption specifies that where a health insurance issuer providing group health insurance coverage is exempt under paragraph (a)(1)(iii), the plan remains subject to any requirement to provide coverage for contraceptive services under Guidelines issued under § 147.130(a)(1)(iv) unless the plan is otherwise exempt from that requirement. Accordingly, the only plan sponsors, or in the case of individual insurance coverage, individuals, who are eligible to purchase or enroll in health insurance coverage offered by an issuer that is exempt under this paragraph (a)(1)(iii) that does not include some or all contraceptive services are plan sponsors or individuals who themselves object and are exempt.

Under the rules as amended, issuers with objections based on sincerely held moral convictions could issue policies that omit contraception to plan sponsors or individuals that are otherwise exempt based on either their religious beliefs or their moral convictions, and issuers with sincerely held religious beliefs could likewise issue policies that omit contraception to plan sponsors or individuals that are otherwise exempt based on either their religious beliefs or their moral convictions.

Issuers that hold moral objections should identify to plan sponsors the

lack of contraceptive coverage in any health insurance coverage being offered that is based on the issuer's exemption, and communicate the group health plan's independent obligation to provide contraceptive coverage, unless the group health plan itself is exempt under regulations governing the Mandate.

In this way, the issuer exemption serves to protect objecting issuers both from being asked or required to issue policies that cover contraception in violation of the issuers' sincerely held moral convictions, and from being asked or required to issue policies that omit contraceptive coverage to non-exempt entities or individuals, thus subjecting the issuers to potential liability if those plans are not exempt from the Guidelines. At the same time, the issuer exemption will not serve to remove contraceptive coverage obligations from any plan or plan sponsor that is not also exempt, nor will it prevent other issuers from being required to provide contraceptive coverage in individual insurance coverage. Protecting issuers that object to offering contraceptive coverage based on sincerely held moral convictions will help preserve space in the health insurance market for certain issuers so that exempt plan sponsors and individuals will be able to obtain coverage.

The Departments are not currently aware of health insurance issuers that possess their own religious or moral objections to offering contraceptive coverage. Nevertheless, many Federal health care conscience laws and regulations protect issuers or plans specifically. For example, as discussed above, 42 U.S.C. 1395w–22(j)(3)(B) and 1396u–2(b)(3) protect plans or managed care organizations in Medicaid or Medicare Advantage. The Weldon Amendment protects HMOs, health insurance plans, and any other health care organizations from being required to provide coverage or pay for abortions. *See, for example,* Consolidated Appropriations Act of 2017, Div. H, Title V, Sec. 507(d), Public Law 115–31. The most recently enacted Consolidated Appropriations Act declares that Congress supports a ''conscience clause'' to protect moral convictions concerning ''the provision of contraceptive coverage by health insurance plans.'' *See id.* at Div. C, Title VIII, Sec. 808.

The issuer exemption does not specifically include third party administrators, for the reasons discussed in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**. The Departments solicit public comment; however, on whether there are situations where there may be an additional need to provide distinct protections for third party administrators that may have moral convictions implicated by the Mandate.[39]

5. Scope of Objections Needed for the Objecting Entity Exemption

Exemptions for objecting entities specify that they apply where the entities object as specified in § 147.133(a)(2). That section specifies that exemptions for objecting entities will apply to the extent that an entity described in § 147.133(a)(1) objects to its establishing, maintaining, providing, offering, or arranging (as applicable) for coverage, payments, or a plan that provides coverage or payments for some or all contraceptive services, based on its sincerely held moral convictions.

6. Individual Exemption

These interim final rules include a special rule pertaining to individuals (referred to here as the ''individual exemption''). Section 147.133(b) provides that nothing in § 147.130(a)(1)(iv), 26 CFR 54.9815–2713T(a)(1)(iv) and 29 CFR 2590.715–2713(a)(1)(iv), may be construed to prevent a willing plan sponsor of a group health plan and/or a willing health insurance issuer offering group or individual health insurance coverage, from offering a separate benefit package option, or a separate policy, certificate, or contract of insurance, to any individual who objects to coverage or payments for some or all contraceptive services based on the individual's sincerely held moral convictions. The individual exemption extends to the coverage unit in which the plan participant, or subscriber in the individual market, is enrolled (for instance, to family coverage covering the participant and his or her beneficiaries enrolled under the plan), but does not relieve the plan's or issuer's obligation to comply with the Mandate with respect to the group health plan at large or, as applicable, to any other individual policies the issuer offers.

This individual exemption allows plan sponsors and issuers that do not specifically object to contraceptive coverage to offer morally acceptable coverage to their participants or subscribers who do object, while offering coverage that includes contraception to participants or subscribers who do not object. This individual exemption can apply with respect to individuals in plans sponsored by private employers or governmental employers. For example, in one case brought against the Departments, the State of Missouri enacted a law under which the State is not permitted to discriminate against insurance issuers that offer health plans without coverage for contraception based on employees' moral convictions, or against the individual employees who accept such offers. *See Wieland,* 196 F. Supp. 3d at 1015–16 (quoting Mo. Rev. Stat. 191.724). Under the individual exemption of these interim final rules, employers sponsoring governmental plans would be free to honor the sincerely held moral objections of individual employees by offering them plans that omit contraception, even if those governmental entities do not object to offering contraceptive coverage in general.

This ''individual exemption'' cannot be used to force a plan (or its sponsor) or an issuer to provide coverage omitting contraception, or, with respect to health insurance coverage, to prevent the application of state law that requires coverage of such contraceptives or sterilization. Nor can the individual exemption be construed to require the guaranteed availability of coverage omitting contraception to a plan sponsor or individual who does not have a sincerely held moral objection. This individual exemption is limited to the requirement to provide contraceptive coverage under section 2713(a)(4) of the PHS Act, and does not affect any other federal or state law governing the plan or coverage. Thus, if there are other applicable laws or plan terms governing the benefits, these interim final rules do not affect such other laws or terms.

The Departments believe the individual exemption will help to meet the Affordable Care Act's goal of increasing health coverage because it will reduce the incidence of certain individuals choosing to forego health coverage because the only coverage available would violate their sincerely held moral convictions.[40] At the same

[39] The exemption for issuers, as outlined here, does not make a distinction among issuers based on whether they are publicly traded, unlike the plan sponsor exemption for business entities. Because the issuer exemption operates more narrowly than the exemption for business plan sponsors operates, in the ways described here, and exists in part to help preserve market options for objecting plan sponsors, the Departments consider it appropriate to not draw such a distinction among issuers.

[40] This prospect has been raised in cases of religious individuals—see, for example, *Wieland,*

Continued

time, this individual exemption ''does not undermine the governmental interests furthered by the contraceptive coverage requirement,'' [41] because, when the exemption is applicable, the individual does not want the coverage, and therefore would not use the objectionable items even if they were covered. In addition, because the individual exemption only operates when the employer and/or issuer, as applicable, are willing, the exemption will not undermine any governmental interest in the workability of the insurance market, because we expect that any workability concerns will be taken into account in the decision of whether to be willing to offer the individual morally acceptable coverage.

For similar reasons, we have changed our position and now believe the individual exemption will not undermine any Government interest in uniformity in the health insurance market. At the level of plan offerings, the extent to which plans cover contraception under the prior rules is already far from uniform. The Congress did not require compliance with section 2713 of the PHS Act by all entities—in particular by grandfathered plans. The Departments' previous exemption for houses of worship and integrated auxiliaries, and our accommodation of self-insured church plans, show that the importance of a uniform health insurance system is not significantly harmed by allowing plans to omit contraception in many contexts.[42]

With respect to operationalizing this provision of these rules, as well as the similar provision protecting individuals with religious objections to purchasing insurance that covers some or all contraceptives, in the interim final rules published elsewhere in this issue of the **Federal Register**, the Departments note that a plan sponsor or health insurance issuer is not required to offer separate and different benefit package options, or separate and different forms of policy, certificate, or contract of insurance with respect to those individuals who object on moral bases from those who object on religious bases. That is, a willing employer or issuer may offer the same benefit package option or policy, certificate, or contract of insurance—which excludes the same scope of some or all contraceptive coverage—to individuals who are exempt from the Mandate because of their moral convictions (under these rules) or their religious beliefs (under the regulations as amended by the interim final rules pertaining to religious beliefs).

7. Optional Accommodation

In addition to expanding the exemption to those with sincerely held moral convictions, these rules also expand eligibility for the optional accommodation process to include employers with objections based on sincerely held moral convictions. This is accomplished by inserting references to the newly added exemption for moral convictions, 45 CFR 147.133, into the regulatory sections where the accommodation process is codified, 45 CFR 147.131, 26 CFR 54.9815–2713AT, and 29 CFR 2590.715–2713A. In all other respects the accommodation process works the same as it does for entities with objections based on sincerely held religious beliefs, as described in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**.

The Departments are not aware of entities with objections to the Mandate based on sincerely held moral convictions that wish to make use of the optional accommodation, and our present assumption is that no such entities will seek to use the accommodation rather than the exemption. But if such entities do wish to use the accommodation, making it available to them will both provide contraceptive coverage to their plan participants and respect those entities' objections. Because entities with objections to the Mandate based on sincerely held non-religious moral convictions have not previously had access to the accommodation, they would not be in a position to revoke their use of the accommodation at the time these interim final rules are issued, but could do so in the future under the same parameters set forth in the accommodation regulations.

8. Regulatory Restatements of Section 2713(a) and (a)(4) of the PHS Act

These interim final rules insert references to 45 CFR 147.133 into the restatements of the requirements of section 2713(a) and (a)(4) of the PHS Act, contained in 26 CFR 54.9815–2713T(a)(1) introductory text and (a)(1)(iv), 29 CFR 2590.715–2713(a)(1) introductory text and (a)(1)(iv), and 45 CFR 147.130(a)(1) and (a)(1)(iv).

9. Conclusion

The Departments believe that the Guidelines, and the expanded exemptions and accommodations set forth in these interim final rules, will advance the legitimate but limited purposes for which Congress imposed section 2713 of the PHS Act, while acting consistently with Congress' well-established record of allowing for moral exemptions with respect to various health care matters. These interim final rules maintain HRSA's discretion to decide whether to continue to require contraceptive coverage under the Guidelines if no regulatorily recognized exemption exists (and in plans where Congress applied section 2713 of the PHS Act). As cited above, these interim final rules also leave fully in place over a dozen Federal programs that provide, or subsidize, contraceptives for women, including for low income women based on financial need. The Departments believe this array of programs and requirements better serves the interests of providing contraceptive coverage while protecting the moral convictions of entities and individuals concerning coverage of some or all contraceptive or sterilization services.

The Departments request and encourage public comments on all matters addressed in these interim final rules.

IV. Interim Final Rules, Request for Comments and Waiver of Delay of Effective Date

Section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act authorize the Secretaries of the Treasury, Labor, and HHS (collectively, the Secretaries) to promulgate any interim final rules that they determine are appropriate to carry out the provisions of chapter 100 of the Code, part 7 of subtitle B of title I of ERISA, and part A of title XXVII of the PHS Act, which include sections 2701 through 2728 of the PHS Act and the incorporation of those sections into section 715 of ERISA and section 9815 of the Code. These interim final rules fall under those statutory authorized justifications, as did previous rules on this matter (75 FR 41726; 76 FR 46621; and 79 FR 51092).

Section 553(b) of the APA requires notice and comment rulemaking, involving a notice of proposed rulemaking and a comment period prior

196 F. Supp. 3d at 1017, and *March for Life,* 128 F. Supp. 3d at 130—where the courts noted that the individual employee plaintiffs indicated that they viewed the Mandate as pressuring them to ''forgo health insurance altogether.''

[41] 78 FR 39874.

[42] *See also Real Alternatives,* 2017 WL 3324690 at *36 (3d Cir. Aug. 4, 2017) (Jordan, J., concurring in part and dissenting in part) (''Because insurance companies would offer such plans as a result of market forces, doing so would not undermine the government's interest in a sustainable and functioning market. . . . Because the government has failed to demonstrate why allowing such a system (not unlike the one that allowed wider choice before the ACA) would be unworkable, it has not satisfied strict scrutiny.'' (citation and internal quotation marks omitted)).

to finalization of regulatory requirements—except when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. These provisions of the APA do not apply here because of the specific authority granted to the Secretaries by section 9833 of the Code, section 734 of ERISA, and section 2792 of the PHS Act.

Even if these provisions of the APA applied, they would be satisfied: The Departments have determined that it would be impracticable and contrary to the public interest to delay putting these provisions in place until a full public notice-and-comment process is completed. As discussed earlier, the Departments have issued three interim final rules implementing this section of the PHS Act because of the immediate needs of covered entities and the weighty matters implicated by the HRSA Guidelines. As recently as December 20, 2016, HRSA updated those Guidelines without engaging in the regulatory process (because doing so is not a legal requirement), and announced that it plans to so continue to update the Guidelines.

Two lawsuits have been pending for several years by entities raising non-religious moral objections to the Mandate.[43] In one of those cases, the Departments are subject to a permanent injunction and the appeal of that case has been stayed since February 2016. In the other case, Federal district and appeals courts ruled in favor of the Departments, denying injunctive relief to the plaintiffs, and that case is also still pending. Based on the public comments the Departments have received, we have reason to believe that some similar nonprofit entities might exist, even if it is likely a small number.[44]

For entities and individuals facing a burden on their sincerely held moral convictions, providing them relief from Government regulations that impose such a burden is an important and urgent matter, and delay in doing so injures those entities in ways that cannot be repaired retroactively. The burdens of the existing rules undermine these entities' and individuals' participation in the health care market because they provide them with a serious disincentive—indeed a crisis of conscience—between participating in or providing quality and affordable health insurance coverage and being forced to violate their sincerely held moral convictions. The existence of inconsistent court rulings in multiple proceedings has also caused confusion and uncertainty that has extended for several years, with different federal courts taking different positions on whether entities with moral objections are entitled to relief from the Mandate. Delaying the availability of the expanded exemption would require entities to bear these burdens for many more months. Continuing to apply the Mandate's regulatory burden on individuals and organizations with moral convictions objecting to compliance with the Mandate also serves as a deterrent for citizens who might consider forming new entities consistent with their moral convictions and offering health insurance through those entities.

Moreover, we separately expanded exemptions to protect religious beliefs in the companion interim final rules issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**. Because Congress has provided many statutes that protect religious beliefs and moral convictions similarly in certain health care contexts, it is important not to delay the expansion of exemptions for moral convictions set forth in these rules, since the companion rules provide protections for religious beliefs on an interim final basis. Otherwise, our regulations would simultaneously provide and deny relief to entities and individuals that are, in the Departments' view, similarly deserving of exemptions and accommodations consistent, with similar protections in other federal laws. This could cause similarly situated entities and individuals to be burdened unequally.

In response to several of the previous rules on this issue—including three issued as interim final rules under the statutory authority cited above—the Departments received more than 100,000 public comments on multiple occasions. Those comments included extensive discussion about whether and to what extent to expand the exemption. Most recently, on July 26, 2016, the Departments issued a request for information (81 FR 47741) and received over 54,000 public comments about different possible ways to resolve these issues. As noted above, the public comments in response to both the RFI and various prior rulemaking proceedings included specific requests that the exemptions be expanded to include those who oppose the Mandate for either religious or ''moral'' reasons.[45] In connection with past regulations, the Departments have offered or expanded a temporary safe harbor allowing organizations that were not exempt from the HRSA Guidelines to operate out of compliance with the Guidelines. The Departments will fully consider comments submitted in response to these interim final rules, but believe that good cause exists to issue the rules on an interim final basis before the comments are submitted and reviewed. Issuing interim final rules with a comment period provides the public with an opportunity to comment on whether these regulations expanding the exemption should be made permanent or subject to modification without delaying the effective date of the regulations.

As the U.S. Court of Appeals for the D.C. Circuit stated with respect to an earlier IFR promulgated with respect to this issue in *Priests for Life* v. *U.S. Department of Health and Human Services,* 772 F.3d 229, 276 (D.C. Cir. 2014), *vacated on other grounds, Zubik* v. *Burwell,* 136 S. Ct. 1557 (2016), ''[S]everal reasons support HHS's decision not to engage in notice and comment here.'' Among other things, the Court noted that ''the agency made a good cause finding in the rule it issued''; that ''the regulations the interim final rule modifies were recently enacted pursuant to notice and comment rulemaking, and presented virtually identical issues''; that ''HHS will expose its interim rule to notice and comment before its permanent implementation''; and that not proceeding under interim final rules would ''delay the implementation of the alternative opt-out for religious objectors.'' *Id.* at 277. Similarly, not proceeding with exemptions and accommodations for moral objectors here would delay the implementation of those alternative opt-outs for moral objectors.

Delaying the availability of the expanded exemption could also increase the costs of health insurance for some entities. As reflected in litigation pertaining to the Mandate, some entities are in grandfathered health plans that do not cover

[43] *March for Life,* 128 F. Supp. 3d 116; *Real Alternatives,* 867 F.3d 338.

[44] *See, for example,* Americans United for Life (''AUL'') Comment on CMA–9992–IFC2 at 10 (Nov. 1, 2011), available at *http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0023-59496,* and AUL Comment on CMS–9968–P at 5 (Apr. 8, 2013), available at *http://www.regulations.gov/#!documentDetail;D=CMS-2012-0031-79115.*

[45] *See, for example, http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0023-59496, http://www.regulations.gov/#!documentDetail;D=CMS-2012-0031-79115, https://www.regulations.gov/document?D=CMS-2016-0123-54142, https://www.regulations.gov/document?D=CMS-2016-0123-54218,* and *https://www.regulations.gov/document?D=CMS-2016-0123-46220.*

contraception. As such, they may wish to make changes to their health plans that will reduce the costs of insurance coverage for their beneficiaries or policyholders, but which would cause the plans to lose grandfathered status. To the extent that entities with objections to the Mandate based on moral convictions but not religious beliefs fall into this category, they may be refraining from making those changes—and therefore may be continuing to incur and pass on higher insurance costs—to prevent the Mandate from applying to their plans in violation of their consciences. We are not aware of the extent to which such entities exist, but 17 percent of all covered workers are in grandfathered health plans, encompassing tens of millions of people.[46] Issuing these rules on an interim final basis reduces the costs of health insurance and regulatory burdens for such entities and their plan participants.

These interim final rules also expand access to the optional accommodation process for certain entities with objections to the Mandate based on moral convictions. If entities exist that wish to use that process, the Departments believe they should be able to do so without the delay that would be involved by not offering them the optional accommodation process by use of interim final rules. Proceeding otherwise could delay the provision of contraceptive coverage to those entities' employees.

For the foregoing reasons, the Departments have determined that it would be impracticable and contrary to the public interest to engage in full notice and comment rulemaking before putting these interim final rules into effect, and that it is in the public interest to promulgate interim final rules. For the same reasons, the Departments have determined, consistent with section 553(d) of the APA (5 U.S.C. 553(d)), that there is good cause to make these interim final rules effective immediately upon filing for public inspection at the Office of the Federal Register.

V. Economic Impact and Paperwork Burden

We have examined the impacts of the interim final rules 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 Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2) and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

A. Executive Orders 12866 and 13563—Department of HHS and Department of Labor

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, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a regulation: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any one year), and an ''economically significant'' regulatory action is subject to review by the Office of Management and Budget (OMB). As discussed below regarding anticipated effects of these rules and the Paperwork Reduction Act, these interim final rules are not likely to have economic impacts of $100 million or more in any one year, and therefore do not meet the definition of ''economically significant'' under Executive Order 12866. However, OMB has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Therefore, OMB has reviewed these final regulations and the Departments have provided the following assessment of their impact.

1. Need for Regulatory Action

These interim final rules amend the Departments' July 2015 final regulations and do so in conjunction with the amendments made in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**. These interim final rules expand the exemption from the requirement to provide coverage for contraceptives and sterilization, established under the HRSA Guidelines, promulgated under section 2713(a)(4) of the PHS Act, section 715(a)(1) of the ERISA, and section 9815(a)(1) of the Code, to include certain entities and individuals with objections to compliance with the Mandate based on sincerely held moral convictions, and they revise the accommodation process to make entities with such convictions eligible to use it. The expanded exemption would apply to certain individuals, nonprofit entities, institutions of higher education, issuers, and for-profit entities that do not have publicly traded ownership interests, that have a moral objection to providing coverage for some (or all) of the contraceptive and/or sterilization services covered by the Guidelines. Such action is taken, among other reasons, to provide for conscientious participation in the health insurance market free from penalties for violating sincerely held moral convictions opposed to providing or receiving coverage of contraceptive services, to resolve lawsuits that have been filed against the Departments by some such entities, and to avoid similar legal challenges.

2. Anticipated Effects

The Departments acknowledge that expanding the exemption to include objections based on moral convictions might result in less insurance coverage of contraception for some women who may want the coverage. Although the Departments do not know the exact scope of that effect attributable to the moral exemption in these interim final rules, they believe it to be small.

With respect to the expanded exemption for nonprofit organizations, as noted above the Departments are aware of two small nonprofit

[46] Kaiser Family Foundation & Health Research & Educational Trust, ''Employer Health Benefits, 2017 Annual Survey,'' available at *http://files.kff.org/attachment/Report-Employer-Health-Benefits-Annual-Survey-2017.*

organizations that have filed lawsuits raising non-religious moral objections to coverage of some contraceptives. Both of those entities have fewer than five employees enrolled in health coverage, and both require all of their employees to agree with their opposition to the coverage.[47] Based on comments submitted in response to prior rulemakings on this subject, we believe that at least one other similar entity exists. However, we do not know how many similar entities exist. Lacking other information we assume that the number is small. Without data to estimate the number of such entities, we believe it to be less than 10, and assume the exemption will be used by nine nonprofit entities.

We also assume that those nine entities will operate in a fashion similar to the two similar entities of which we are aware, so that their employees will likely share their views against coverage of certain contraceptives. This is consistent with our conclusion in previous rules that no significant burden or costs would result from exempting houses of worship and integrated auxiliaries. (*See* 76 FR 46625 and 78 FR 39889). We reached that conclusion without ultimately requiring that houses of worship and integrated auxiliaries only hire persons who agree with their views against contraception, and without even requiring that such entities actually oppose contraception in order to be exempt (in contrast, the expanded exemption here requires the exempt entity to actually possess sincerely held moral convictions objecting to the coverage). In concluding that the exemption for houses of worship and integrated auxiliaries would result in no significant burden or costs, we relied on our assumption that the employees of exempt houses of worship and integrated auxiliaries likely share their employers' opposition to contraceptive coverage.

A similar assumption is supported with respect to the expanded exemption for nonprofit organizations. To our knowledge, the vast majority of organizations objecting to the Mandate assert religious beliefs. The only nonprofit organizations of which we are aware that possess non-religious moral convictions against some or all contraceptive methods only hire persons who share their convictions. It is possible that the exemption for nonprofit organizations with moral convictions in these interim final rules could be used by a nonprofit organization that employs persons who do not share the organization's views on contraception, but it was also possible under our previous rules that a house of worship or integrated auxiliary could employ persons who do not share their views on contraception.[48] Although we are unable to find sufficient data on this issue, we believe that there are far fewer non-religious moral nonprofit organizations opposed to contraceptive coverage than there are churches with religious objections to such coverage. Based on our limited data, we believe the most likely effect of the expanded exemption for nonprofit entities is that it will be used by entities similar to the two entities that have sought an exemption through litigation, and whose employees also oppose the coverage. Therefore, we expect that the expanded exemption for nonprofit entities will have no effect of reducing contraceptive coverage to employees who want that coverage.

These interim final rules expand the exemption to include institutions of higher education that arrange student coverage and have non-religious moral objections to the Mandate, and they make exempt entities with moral objections eligible to use the accommodation. The Departments are not aware of either kind of entity. We believe the number of entities that object to the Mandate based on non-religious moral convictions is already very small. The only entities of which we are aware that have raised such objections are not institutions of higher education, and appear to hold objections that we assume would likely lead them to reject the accommodation process. Therefore, for the purposes of estimating the anticipated effect of these interim final rules on contraceptive coverage of women who wish to receive such coverage, we assume that—at this time—no entities with non-religious moral objections to the Mandate will be institutions of higher education that arrange student coverage, and no entities with non-religious moral objections will opt into the accommodation. We wish to make the expanded exemption and accommodation available to such entities in case they do exist or might come into existence, based on similar reasons to those given above for why the exemptions and accommodations are extended to other entities. We invite public comment on whether and how many such entities will make use of these interim final rules.

The expanded exemption for issuers will not result in a distinct effect on contraceptive coverage for women who wish to receive it because that exemption only applies in cases where plan sponsors or individuals are also otherwise exempt, and the effect of those exemptions is discussed elsewhere herein. The expanded exemption for individuals that oppose contraceptive coverage based on sincerely held moral convictions will provide coverage that omits contraception for individuals that object to contraceptive coverage.

The expanded moral exemption would also cover for-profit entities that do not have publicly traded ownership interests, and that have non-religious moral objections to the Mandate. The Departments are not aware of any for-profit entities that possess non-religious moral objections to the Mandate. However, scores of for-profit entities have filed suit challenging the Mandate. Among the over 200 entities that brought legal challenges, only two entities (less than 1 percent) raised non-religious moral objections—both were nonprofit. Among the general public polls vary about religious beliefs, but one prominent poll shows that 89 percent of Americans say they believe in God.[49] Among non-religious persons, only a very small percentage appears to hold moral objections to contraception. A recent study found that only 2 percent of religiously unaffiliated persons believed using contraceptives is morally wrong.[50] Combined, this suggests that 0.2 percent of Americans at most[51] might believe contraceptives are morally wrong based on moral convictions but not religious beliefs. We have no information about how many of those persons run closely held businesses, offer employer sponsored health insurance, and would make use of the expanded exemption for moral

[47] Non-religious nonprofit organizations that engage in expressive activity generally have a First Amendment right to hire only people who share their moral convictions or will be respectful of them—including their convictions on whether the organization or others provide health coverage of contraception, or of certain items they view as being abortifacient.

[48] *Cf., for example,* Gallup, ''Americans, Including Catholics, Say Birth Control Is Morally OK,'' (May 22, 2012) (''Eighty-two percent of U.S. Catholics say birth control is morally acceptable''), available at *http://www.gallup.com/poll/154799/americans-including-catholics-say-birth-control-morally.aspx.*

[49] Gallup, ''Most Americans Still Believe in God'' (June 14–23, 2016), available at *http://www.gallup.com/poll/193271/americans-believe-god.aspx.*

[50] Pew Research Center, ''Where the Public Stands on Religious Liberty vs. Nondiscrimination'' at page 26 (Sept. 28, 2016), available at *http://assets.pewresearch.org/wp-content/uploads/sites/11/2016/09/Religious-Liberty-full-for-web.pdf.*

[51] The study defined religiously ''unaffiliated'' as agnostic, atheist or ''nothing in particular'' (*id.* at 8), as distinct from several versions of Protestants, or Catholics. ''Nothing in particular'' might have included some theists.

convictions set forth in these interim final rules. Given the large number of closely held entities that challenged the Mandate based on religious objections, we assume that some similar for-profit entities with non-religious moral objections exist. But we expect that it will be a comparatively small number of entities, since among the nonprofit litigants, only two were non-religious. Without data available to estimate the actual number of entities that will make use of the expanded exemption for for-profit entities that do not have publicly traded ownership interests and that have objections to the Mandate based on sincerely held moral convictions, we expect that fewer than 10 entities, if any, will do so—we assume nine for-profit entities will use the exemption in these interim final rules.

The expanded exemption encompassing certain for-profit entities could result in the removal of contraceptive coverage from women who do not share their employers' views. The Departments used data from the Current Population Survey (CPS) and the Medical Expenditure Panel Survey-Insurance Component (MEPS–IC) to obtain an estimate of the number of policyholders that will be covered by the plans of the nine for-profit entities we assume may make use of these expanded exemptions.[52] The average number of policyholders (9) in plans with under 100 employees was obtained. It is not known what size the for-profit employers will be that might claim this exemption, but as discussed above these interim final rules do not include publicly traded companies (and we invite public comments on whether to do so in the final rules), and both of the two nonprofit entities that challenged the Mandate included fewer than five policyholders in each entity. Therefore we assume the for-profit entities that may claim this expanded exemption will have fewer than 100 employees and an average of 9 policyholders. For nine entities, the total number of policyholders would be 81. DOL estimates that for each policyholder, there is approximately one dependent.[53] This amounts to 162 covered persons. Census data indicate that women of childbearing age—that is, women aged 15–44—comprise 20.2 percent of the general population.[54] This amounts to approximately 33 women of childbearing age for this group of individuals covered by group plans sponsored by for-profit moral objectors. Approximately 44.3 percent of women currently use contraceptives covered by the Guidelines.[55] Thus we estimate that 15 women may incur contraceptive costs due to for-profit entities using the expanded exemption provided in these interim final rules.[56] In the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**, we estimate that the average cost of contraception per year per woman of childbearing age that use contraception covered by the Guidelines, within health plans that cover contraception, is $584. Consequently, we estimate that the anticipated effects attributable to the cost of contraception from for-profit entities using the expanded exemption in these interim final rules is approximately $8,760.

The Departments estimate that these interim final rules will not result in any additional burden or costs on issuers or third party administrators. As discussed above, we assume that no entities with non-religious moral convictions will use the accommodation, although we wish to make it available in case an entity voluntarily opts into it in order to allow contraceptive coverage to be provided to its plan participants and beneficiaries. Finally, because the accommodation process was not previously available to entities that possess non-religious moral objections to the Mandate, we do not anticipate that these interim final rules will result in any burden from such entities revoking their accommodated status.

The Departments believe the foregoing analysis represents a reasonable estimate of the likely impact under the rules expanded exemptions. The Departments acknowledge uncertainty in the estimate and therefore conducted a second analysis using an alternative framework, which is set forth in the companion interim final rule concerning religious beliefs issued contemporaneously with this interim final rule and published elsewhere in this issue of the **Federal Register**. Under either estimate, this interim final rule is not economically significant.

We reiterate the rareness of instances in which we are aware that employers assert non-religious objections to contraceptive coverage based on sincerely held moral convictions, as discussed above, and also that in the few instances where such an objection has been raised, employees of such employers also opposed contraception.

We request comment on all aspects of the preceding regulatory impact analysis.

B. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury, certain Internal Revenue Service (IRS) regulations, including this one, are exempt from the requirements in Executive Order 12866, as supplemented by Executive Order 13563. The Departments estimate that the likely effect of these interim final rules will be that entities will use the exemption and not the accommodation. Therefore, a regulatory assessment is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the APA (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Under Section 553(b) of the APA, a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public

[52] ''Health Insurance Coverage Bulletin'' Table 4, page 21. Using March 2015 Annual Social and Economic Supplement to the Current Population Survey. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf*Estimates of the number of ERISA Plans based on 2015 Medical Expenditure Survey—Insurance

[53] ''Health Insurance Coverage Bulletin'' Table 4, page 21. Using March 2015 Annual Social and Economic Supplement to the Current Population Survey. *https://www.dol.gov/sites/default/files/ebsa/researchers/data/health-and-welfare/health-insurance-coverage-bulletin-2015.pdf.*

[54] U.S. Census Bureau, ''Age and Sex Composition: 2010'' (May 2011), available at *https://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.* The Guidelines' requirement of contraceptive coverage only applies ''for all women with reproductive capacity.'' *https://www.hrsa.gov/womensguidelines/; see also* 80 FR 40318. In addition, studies commonly consider the 15–44 age range to assess contraceptive use by women of childbearing age. *See,* Guttmacher Institute, ''Contraceptive Use in the United States'' (Sept. 2016), available at *https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states.*

[55] *See https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states.*

[56] We note that many non-religious for-profit entities which sued the Departments challenging the Mandate, including some of the largest employers, only objected to coverage of 4 of the 18 types of contraceptives required to be covered by the Mandate—namely, those contraceptives which they viewed as abortifacients, and akin to abortion —and they were willing to provide coverage for other types of contraception. It is reasonable to assume that this would also be the case with respect to some for-profits that object to the Mandate on the basis of sincerely held moral convictions. Accordingly, it is possible that even fewer women beneficiaries under such plans would bear out-of-pocket expenses in order to obtain contraceptives, and that those who might do so would bear lower costs due to many contraceptive items being covered.

interest. The interim final rules are exempt from the APA, both because the PHS Act, ERISA, and the Code contain specific provisions under which the Secretaries may adopt regulations by interim final rule and because the Departments have made a good cause finding that a general notice of proposed rulemaking is not necessary earlier in this preamble. Therefore, the RFA does not apply and the Departments are not required to either certify that the regulations or this amendment would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

Nevertheless, the Departments carefully considered the likely impact of the rule on small entities in connection with their assessment under Executive Order 12866. The Departments do not expect that these interim final rules will have a significant economic effect on a substantial number of small entities, because they will not result in any additional costs to affected entities. Instead, by exempting from the Mandate small businesses and nonprofit organizations with moral objections to some or all contraceptives and/or sterilization, the Departments have reduced regulatory burden on small entities. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

D. Paperwork Reduction Act—Department of Health and Human Services

Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information. Interested persons are invited to send comments regarding our burden estimates 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.

We estimate that these interim final rules will not result in additional burdens not accounted for as set forth in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**. As discussed there, regulations covering the accommodation include provisions regarding self-certification or notices to HHS from eligible organizations (§ 147.131(c)(3)), notice of availability of separate payments for contraceptive services (§ 147.131(f)), and notice of revocation of accommodation (§ 147.131(c)(4)). The burdens related to those ICRs are currently approved under OMB Control Numbers 0938–1248 and 0938–1292. These interim final rules amend the accommodation regulations to make entities with moral objections to the Mandate eligible to use the same accommodation processes. The Departments will update the forms and model notices regarding these processes to reflect that entities with sincerely held moral convictions are eligible organizations.

As discussed above, however, we assume that no entities with non-religious moral objections to the Mandate will use the accommodation, and we know that no such entities were eligible for it until now, so that they do not possess accommodated status to revoke. Therefore we believe that the burden for these ICRs is accounted for in the collection approved under OMB Control Numbers 0938–1248 and 0938–1292, as described in the interim final rules concerning religious beliefs issued contemporaneously with these interim final rules.

We are soliciting comments on all of the possible information collection requirements contained in these interim final rules, including those discussed in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**, for which these interim final rules provide eligibility to entities with objections based on moral convictions. In addition, we are also soliciting comments on all of the related information collection requirements currently approved under 0938–1292 and 0938–1248.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

If you comment on these information collections, that is, reporting, recordkeeping or third-party disclosure requirements, please submit your comments electronically as specified in the **ADDRESSES** section of these interim final rules with comment period.

E. Paperwork Reduction Act—Department of Labor

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number. In accordance with the requirements of the PRA, the ICR for the EBSA Form 700 and alternative notice have previously been approved by OMB under control numbers 1210–0150 and 1210–0152. A copy of the ICR may be obtained by contacting the PRA addressee shown below or at *http://www.RegInfo.gov*. PRA ADDRESSEE: G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: 202–693–8410; Fax: 202–219–4745. These are not toll-free numbers.

Consistent with the analysis in the HHS PRA section above, although these interim final rules make entities with certain moral convictions eligible for the accommodation, we assume that no entities will use it rather than the exemption, and such entities were not previously eligible for the accommodation so as to revoke it. Therefore we believe these interim final rules do not involve additional burden not accounted for under OMB control number 1210–0150.

Regarding the ICRs discussed in the companion interim final rules concerning religious beliefs issued contemporaneously with these interim final rules and published elsewhere in this issue of the **Federal Register**, the forms for which would be used if any entities with moral objections used the accommodation process in the future, DOL submitted those ICRs in order to obtain OMB approval under the PRA for the regulatory revision. The request was made under emergency clearance procedures specified in regulations at 5 CFR 1320.13. OMB approved the ICRs under the emergency clearance process. In an effort to consolidate the number of information collection requests, DOL indicated it will combine the ICR related to the OMB control number 1210–0152 with the ICR related to the OMB control number 1210–0150. Once

the ICR is approved, DOL indicated it will discontinue 1210–0152. OMB approved the ICR under control number 1210–0150 through [DATE]. A copy of the information collection request may be obtained free of charge on the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-1210-001.* This approval allows respondents temporarily to utilize the additional flexibility these interim final regulations provide, while DOL seeks public comment on the collection methods—including their utility and burden. Contemporaneously with the publication of these interim final rules, DOL will publish a notice in the **Federal Register** informing the public of its intention to extend the OMB approval.

F. Regulatory Reform Executive Orders 13765, 13771 and 13777

Executive Order 13765 (January 20, 2017) directs that, ''[t]o the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.'' In addition, agencies are directed to ''take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the [Affordable Care Act], and prepare to afford the States more flexibility and control to create a more free and open healthcare market.'' These interim final rules exercise the discretion provided to the Departments under the Affordable Care Act and other laws to grant exemptions and thereby minimize regulatory burdens of the Affordable Care Act on the affected entities and recipients of health care services.

Consistent with Executive Order 13771 (82 FR 9339, February 3, 2017), we have estimated the costs and cost savings attributable to this interim final rule. As discussed in more detail in the preceding analysis, this interim final rule lessens incremental reporting costs.[57] Therefore, this interim final rule is considered an EO 13771 deregulatory action.

G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (section 202(a) of Pub. L. 104–4), requires the Departments to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing ''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 $148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. For purposes of the Unfunded Mandates Reform Act, these interim final rules do not include any Federal mandate that may result in expenditures by State, local, or tribal governments, nor do they include any Federal mandates that may impose an annual burden of $100 million, adjusted for inflation, or more on the private sector.

H. Federalism

Executive Order 13132 outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have ''substantial direct effects'' on States, the relationship between the Federal Government and States, or the distribution of power and responsibilities among the various levels of Government. Federal agencies promulgating regulations that have these federalism implications must consult with state and local officials, and describe the extent of their consultation and the nature of the concerns of state and local officials in the preamble to the regulation.

These interim final rules do not have any Federalism implications, since they only provide exemptions from the contraceptive and sterilization coverage requirement in HRSA Guidelines supplied under section 2713 of the PHS Act.

VI. Statutory Authority

The Department of the Treasury temporary regulations are adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are adopted pursuant to the authority contained in 29 U.S.C. 1002(16), 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1185d, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Public Law 111–148, 124 Stat. 119, as amended by Public Law 111–152, 124 Stat. 1029; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

The Department of Health and Human Services regulations are adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended; and Title I of the Affordable Care Act, sections 1301–1304, 1311–1312, 1321–1322, 1324, 1334, 1342–1343, 1401–1402, and 1412, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18032, 18041–18042, 18044, 18054, 18061, 18063, 18071, 18082, 26 U.S.C. 36B, and 31 U.S.C. 9701).

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping

[57] Other noteworthy potential impacts encompass potential changes in medical expenditures, including potential decreased expenditures on contraceptive devices and drugs and potential increased expenditures on pregnancy-related medical services. OMB's guidance on E.O. 13771 implementation (*https://www.whitehouse.gov/the-press-office/2017/04/05/memorandum-implementing-executive-order-13771-titled-reducing-regulation*) states that impacts should be categorized as consistently as possible within Departments. The Food and Drug Administration, within HHS, and the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA), within DOL, regularly estimate medical expenditure impacts in the analyses that accompany their regulations, with the results being categorized as benefits (positive benefits if expenditures are reduced, negative benefits if expenditures are raised). Following the FDA, OSHA and MSHA accounting convention leads to this interim final rule's medical expenditure impacts being categorized as (positive or negative) benefits, rather than as costs, thus placing them outside of consideration for E.O. 13771 designation purposes.

requirements, State regulation of health insurance.

Kirsten B. Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: October 2, 2017.

David J. Kautter,

Assistant Secretary for Tax Policy.

Signed this 4th day of October, 2017.

Timothy D. Hauser,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.

Dated: October 4, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Approved: October 4, 2017.

Donald Wright,

Acting Secretary, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

For the reasons set forth in this preamble, 26 CFR part 54 is amended as follows:

PART 54—PENSION EXCISE TAXES

■ 1. The authority citation for part 54 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805. * * *

§ 54.9815–2713T [Amended]

■ 2. Section 54.9815–2713T, as added elsewhere in this issue of the **Federal Register**, is amended in paragraph (a)(1)(iv) by removing the reference ''147.131 and 147.132'' and adding in its place the reference ''147.131, 147.132, and 147.133''.

§ 54.9815–2713AT [Amended]

■ 3. Section 54.9815–2713AT, as added elsewhere in this issue of the **Federal Register**], is amended—

■ a. In paragraph (a)(1) by removing ''or (ii)'' and adding in its place ''or (ii), or 45 CFR 147.133(a)(1)(i) or (ii)'';

■ b. In paragraph (a)(2) by removing the reference ''147.132(a)'' and adding in its place the reference ''147.132(a) or 147.133(a)'';

■ c. In paragraph (b)(1)(ii) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ d. In paragraph (b)(1)(ii)(B) by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ e. In paragraph (c)(1)(ii) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ f. In paragraph (c)(1)(ii)(B) by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133''; and

■ g. In paragraph (c)(2) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133''.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

For the reasons set forth in the preamble, the Department of Labor amends 29 CFR part 2590 as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 3. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Division M, Pub. L. 113–235, 128 Stat. 2130; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

§ 2590.715–2713 [Amended]

■ 4. Section 2590.715–2713, as amended elsewhere in this issue of the **Federal Register**], is further amended in paragraph (a)(1)(iv) by removing the reference ''147.131 and 147.132'' and adding in its place the reference ''147.131, 147.132, and 147.133''.

§ 2590.715–2713A [Amended]

■ 5. Section 2590.715–2713A, as revised elsewhere in this issue of the **Federal Register**], is further amended—

■ a. In paragraph (a)(1) by removing ''(ii)'' and adding in its place ''(ii), or 45 CFR 147.133(a)(1)(i) or (ii)'';

■ b. In paragraph (a)(2) by removing the reference ''147.132(a)'' and adding in its place the reference ''147.132(a) or 147.133(a)'';

■ c. In paragraph (b)(1)(ii) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ d. In paragraph (b)(1)(ii)(B) by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ e. In paragraph (c)(1)(ii) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133'';

■ f. In paragraph (c)(1)(ii)(B) by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133''; and

■ g. In paragraph (c)(2) introductory text by removing the reference ''147.132'' and adding in its place the reference ''147.132 or 147.133''.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 147 as follows:

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 6. The authority citation for part 147 continues to read as follows:

Authority: Secs 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

§ 147.130 [Amended]

■ 7. Section 147.130, as amended elsewhere in this issue of the **Federal Register**, is further amended in paragraphs (a)(1) introductory text and (a)(1)(iv) by removing the reference ''§§ 147.131 and 147.132'' and adding in its place the reference ''§§ 147.131, 147.132, and 147.133''.

§ 147.131 [Amended]

■ 8. Section 147.131, as revised elsewhere in this issue of the **Federal Register**, is further amended—

■ a. In paragraph (c)(1) by removing the reference ''(ii)'' and adding in its place the reference ''(ii), or 45 CFR 147.133(a)(1)(i) or (ii)''.

■ b. In paragraph (c)(2) by removing the reference ''§ 147.132(a)'' and adding in its place the reference ''§ 147.132(a) or 147.133''; and

■ c. In paragraphs (d)(1)(ii) introductory text, (d)(1)(ii)(B) and (d)(2) by removing the reference ''§ 147.132'' and to adding in its place the reference ''§ 147.132 or 147.133''.

■ 9. Add § 147.133 to read as follows:

§ 147.133 Moral exemptions in connection with coverage of certain preventive health services.

(a) *Objecting entities.* (1) Guidelines issued under § 147.130(a)(1)(iv) by the Health Resources and Services Administration must not provide for or support the requirement of coverage or payments for contraceptive services with respect to a group health plan established or maintained by an objecting organization, or health insurance coverage offered or arranged by an objecting organization, and thus

the Health Resources and Service Administration will exempt from any guidelines' requirements that relate to the provision of contraceptive services:

(i) A group health plan and health insurance coverage provided in connection with a group health plan to the extent one of the following non-governmental plan sponsors object as specified in paragraph (a)(2) of this section:

(A) A nonprofit organization; or

(B) A for-profit entity that has no publicly traded ownership interests (for this purpose, a publicly traded ownership interest is any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934);

(ii) An institution of higher education as defined in 20 U.S.C. 1002 in its arrangement of student health insurance coverage, to the extent that institution objects as specified in paragraph (a)(2) of this section. In the case of student health insurance coverage, this section is applicable in a manner comparable to its applicability to group health insurance coverage provided in connection with a group health plan established or maintained by a plan sponsor that is an employer, and references to ''plan participants and beneficiaries'' will be interpreted as references to student enrollees and their covered dependents; and

(iii) A health insurance issuer offering group or individual insurance coverage to the extent the issuer objects as specified in paragraph (a)(2) of this section. Where a health insurance issuer providing group health insurance coverage is exempt under paragraph (a)(1)(iii) of this section, the group health plan established or maintained by the plan sponsor with which the health insurance issuer contracts remains subject to any requirement to provide coverage for contraceptive services under Guidelines issued under § 147.130(a)(1)(iv) unless it is also exempt from that requirement.

(2) The exemption of this paragraph (a) will apply to the extent that an entity described in paragraph (a)(1) of this section objects to its establishing, maintaining, providing, offering, or arranging (as applicable) coverage or payments for some or all contraceptive services, or for a plan, issuer, or third party administrator that provides or arranges such coverage or payments, based on its sincerely held moral convictions.

(b) *Objecting individuals.* Guidelines issued under § 147.130(a)(1)(iv) by the Health Resources and Services Administration must not provide for or support the requirement of coverage or payments for contraceptive services with respect to individuals who object as specified in this paragraph (b), and nothing in § 147.130(a)(1)(iv), 26 CFR 54.9815–2713(a)(1)(iv), or 29 CFR 2590.715–2713(a)(1)(iv) may be construed to prevent a willing health insurance issuer offering group or individual health insurance coverage, and as applicable, a willing plan sponsor of a group health plan, from offering a separate policy, certificate or contract of insurance or a separate group health plan or benefit package option, to any individual who objects to coverage or payments for some or all contraceptive services based on sincerely held moral convictions.

(c) *Definition.* For the purposes of this section, reference to ''contraceptive'' services, benefits, or coverage includes contraceptive or sterilization items, procedures, or services, or related patient education or counseling, to the extent specified for purposes of § 147.130(a)(1)(iv).

(d) *Severability.* Any provision of this section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

[FR Doc. 2017–21852 Filed 10–6–17; 11:15 am]

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FEDERAL REGISTER

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Part IV

Postal Service

Change in Rates of General Applicability for Competitive Products; Notice

POSTAL SERVICE

Change in Rates of General Applicability for Competitive Products

AGENCY: Postal Service™.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates of general applicability for #petitive products.

DATES: *Effective date:* January 21, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: Pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established prices for competitive products. The Governors' Decisions and the record of proceedings in connection with such decisions are reprinted below in accordance with section 3632(b)(2).

Stanley F. Mires,

Attorney, Federal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 16–8)

November 14, 2016

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), the Governors establish new prices of general applicability for the Postal Service's shipping services (competitive products). The price changes are described generally below, with a schedule of the new prices in the attachment.

The changes I establish should enable each competitive product to cover its attributable costs (39 U.S.C. § 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. § 3633(a)(3), which, as implemented by 39 C.F.R. § 3015.7(c), requires competitive products collectively to contribute a minimum of 5.5 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. § 3633(a)(1)). I therefore find that the new prices are in accordance with 39 U.S.C. §§ 3632–3633 and 39 C.F.R. § 3015.2.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 3.9 percent increase. The existing structure of zoned Retail, Commercial Base, and Commercial Plus price categories is maintained, with Commercial Base and Commercial Plus prices continuing to be set equal to each other.

Retail prices will increase an average of 3.9 percent. The price for the Retail Flat Rate Envelope, a significant portion of all Priority Mail Express volume, is increasing to $24.70.

The Commercial Base price category offers lower prices to customers who use online and other authorized postage payment methods. The Commercial Base prices will increase 3.7 percent on average. Commercial Base prices will be set at an average 11.3 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. However, recognizing that the Postal Service is at a competitive disadvantage in the marketplace by publishing these highly discounted prices that are viewable by all customers, Commercial Plus prices were matched to the Commercial Base prices in 2016 and 2017, and will continue to be in 2018. For January, Commercial Plus prices as a whole will receive a 3.7 percent increase.

B. Priority Mail

On average, the Priority Mail prices will be increased by 3.9 percent. The existing structure of Priority Mail Retail, Commercial Base, and Commercial Plus price categories is maintained.

Retail prices will increase an average of 0.8 percent. Retail Flat Rate Box prices will be: Small, $7.20; Medium, $13.65; Large, $18.90 and Large APO/FPO/DPO, $17.40. The regular Flat Rate Envelope will be priced at $6.70, with the Legal Size and Padded Flat Rate Envelopes priced at $7.00 and $7.25, respectively.

The Commercial Base price category offers lower prices to customers using authorized postage payment methods. The Commercial Base prices will increase 6.2 percent on average. Commercial Base prices will, on average, reflect a 9.4 percent discount off of Retail prices.

The Commercial Plus price category has traditionally offered even lower prices to large-volume customers. For January, Commercial Plus prices as a whole will receive a 6.1 percent increase and will average 12.7 percent off Retail prices.

C. Parcel Select

On average, prices for non-Lightweight Parcel Select, the Postal Service's bulk ground shipping product, will increase 4.9 percent. Prices for Parcel Select Lightweight will increase by 7.0 percent.

D. Parcel Return Service

Parcel Return Service prices will have an overall price increase of 4.9 percent. Prices for parcels retrieved at a return Sectional Center Facility (RSCF) will increase by 5.2 percent, and prices for parcels picked up at a return delivery unit (RDU) will increase 4.6 percent.

E. First-Class Package Service

First-Class Package Service continues to be positioned as a lightweight (less than one pound) offering used by businesses for fulfillment purposes. Overall, First-Class Package Service prices will increase 3.9 percent.

F. Retail Ground

Retail Ground prices will increase 3.9 percent. Customers shipping in Zones 1–4 will continue to receive Priority Mail service and will only default to Retail Ground if the item contains hazardous material or is otherwise not permitted to travel by air transportation.

G. Domestic Extra Services

Premium Forwarding Service prices will increase 3.9 percent in 2018. The retail counter enrollment fee will increase to $20.10. The online enrollment option, introduced in 2014, will now be available for $18.45. The weekly reshipment fee will increase to $20.10. The prices for the flat rate full and half trays, introduced in 2017, will remain unchanged in 2018. Prices for Adult Signature service will increase to $6.10 for the basic service and $6.35 for the person-specific service. Address Enhancement Service prices will be increasing between 2.7 and 4.2 percent depending on the particular rate element, to ensure adequate cost coverage. Competitive Post Office Box prices will be increasing 6.5 percent on average, which is within the existing price ranges. Package Intercept Service will increase 3.9 percent, to $13.45.

II. International Products

A. Expedited Services

International expedited services include Global Express Guaranteed (GXG) and Priority Mail Express International (PMEI). Overall, GXG prices will rise by 3.9 percent, and PMEI will be subject to an overall 3.9 percent increase. Commercial Plus prices will be equivalent to Commercial Base;

however, deeper discounting may still be made available to customers through negotiated service agreements.

B. Priority Mail International

The overall increase for Priority Mail International (PMI) will be 3.9 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting may still be made available to customers through negotiated service agreements.

C. International Priority Airmail and International Surface Air Lift

Published prices for International Priority Airmail (IPA) and International Surface Air Lift (ISAL) will increase by 3.9 percent, and published prices for IPA and ISAL M-Bags will increase by 3.9 percent.

D. Airmail M-Bags

The published prices for Airmail M-Bags will increase by 3.9 percent.

E. First-Class Package International Service™

The overall increase for First-Class Package International Service (FCPIS) prices will be 3.9 percent. Commercial Plus prices will be equivalent to Commercial Base; however, deeper discounting will still be made available to customers through negotiated service agreements.

F. International Ancillary Services and Special Services

Prices for several international ancillary services and special services will be increased, with an overall increase of 3.9 percent.

Order

The changes in prices and classes set forth herein shall be effective at 12:01 A.M. on or about January 21, 2018. I direct the Secretary to have this decision published in the **Federal Register** at the appropriate time in accordance with 39 U.S.C. § 3632(b)(2), and direct management to simultaneously file with the Postal Regulatory Commission appropriate notice of these changes, unless this decision has been rescinded or superseded by a subsequent decision as described below. Further, this decision can be rescinded in the event any new Governor is confirmed by the Senate prior to the filing of the notice of adjustment described herein with the PRC, and a majority of the Governors then in office vote to do so, or if it is superseded by a subsequent Decision of the Governors.

By The Governors:

/s/

James H. Bilbray,

Chairman, Temporary Emergency Committee of the Board of Governors.

CERTIFICATION OF GOVERNORS' VOTE IN THE GOVERNORS' DECISION NO. 16–8

Consistent with 39 USC 3632(a), I hereby certify that the following Governors voted in favor of Governors' Decision No. 16–8:

James H. Bilbray

/s/

Date: November 14, 2016

Julie S. Moore,

Secretary of the Board of Governors.

Date: November 14, 2016

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 16–10)

December 5, 2016

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), I establish price changes for the Postal Service's shipping services (competitive products), specifically for First-Class Package Service. The price changes are described generally below, with a schedule of the new prices in the attachment.

After First-Class Mail Retail parcels have been transferred to the competitive product list, I hereby authorize the attached prices for the First-Class Package Service Retail parcels price category as a second price increase for this competitive product. These changes reflect a 14.5 percent average increase over the prices that are reflected in Governors' Decision 16–9.

The changes I establish should enable each competitive product to cover its attributable costs (39 U.S.C. § 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. § 3633(a)(3), which, as implemented by 39 C.F.R. § 3015.7(c), requires competitive products collectively to contribute a minimum of 5.5 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. § 3633(a)(1)). I therefore find that the new prices are in accordance with 39 U.S.C. §§ 3632–3633 and 39 C.F.R. § 3015.2.

Order

The changes in prices set forth herein shall be effective thirty (30) days after management has filed appropriate notice of these changes with the Postal Regulatory Commission (''Commission''). I direct the Secretary to have this decision published in the **Federal Register** in accordance with 39 U.S.C. § 3632(b)(2), and direct management to file with the Commission appropriate notice of these changes, unless this decision has been superseded by a subsequent decision. Further, this decision may be rescinded in the event any new Governor is confirmed by the Senate prior to the filing of the notice of adjustment with the Commission that is authorized herein, and a majority of Governors then in office vote to do so.

By The Governors:

/s/

James H. Bilbray,

Chairman, Temporary Emergency Committee of the Board of Governors.

CERTIFICATION OF GOVERNORS' VOTE IN THE GOVERNORS' DECISION NO. 16–10

Consistent with 39 USC 3632(a), I hereby certify that the following Governors voted in favor of Governors' Decision No. 16–10:

James H. Bilbray

/s/

Julie S. Moore,

Secretary of the Board of Governors.

Date: December 5, 2016

Part B

Competitive Products

2000 Competitive Product List

2100 Domestic Products

* * *

* * *

2105 Priority Mail Express

* * *

2105.6 Prices

RETAIL PRIORITY MAIL EXPRESS ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	24.70	24.70	25.50	27.70	29.60	31.45	33.55	40.95
1	24.70	25.75	31.00	34.75	35.95	38.20	39.40	48.00
2	24.70	27.50	33.80	37.85	39.45	41.70	43.15	52.70
3	24.70	28.75	38.05	44.45	46.35	49.10	50.50	61.60
4	24.70	30.70	40.55	50.30	52.25	55.30	56.80	69.35
5	25.80	34.45	43.25	53.80	58.75	61.55	63.20	77.05
6	29.55	39.45	50.15	61.15	64.35	67.65	69.70	85.05
7	32.40	43.20	57.50	66.85	69.85	73.90	76.55	93.35
8	35.55	47.40	62.25	71.95	75.85	80.20	82.40	100.50
9	36.95	49.30	64.60	76.90	81.75	86.40	88.70	108.25
10	38.90	51.40	67.05	80.35	85.95	90.85	93.15	113.65
11	41.15	57.50	74.95	84.25	88.40	93.30	95.70	116.75
12	43.30	61.55	79.60	88.70	92.35	97.60	99.95	121.95
13	45.85	65.50	83.25	92.75	96.25	101.65	105.80	129.00
14	47.95	69.55	86.55	96.35	100.30	105.90	110.10	134.35
15	49.50	73.45	90.20	100.45	104.40	110.10	114.50	139.70
16	51.65	77.65	93.75	104.35	108.90	114.85	118.35	144.40
17	53.65	81.65	97.30	108.10	112.55	118.60	121.65	148.40
18	55.80	85.55	100.75	111.95	116.50	122.80	126.05	153.75
19	57.80	89.60	104.15	115.70	120.55	126.95	130.25	158.85
20	59.10	91.80	107.30	119.00	122.80	129.40	133.45	162.80
21	60.45	97.55	110.65	122.80	128.25	135.00	138.45	168.90
22	62.70	101.60	115.50	128.15	132.25	139.20	143.75	175.40
23	64.55	105.50	118.85	131.85	136.35	143.45	147.95	180.50
24	66.90	109.60	122.75	136.05	140.45	147.75	151.20	184.50
25	69.60	113.65	125.70	139.20	144.30	151.70	155.95	190.30
26	71.15	117.75	129.30	143.20	148.30	155.90	160.40	195.70
27	73.25	121.55	132.70	146.85	152.25	160.00	164.60	200.85
28	74.70	125.65	136.95	151.45	156.20	164.10	168.95	206.10
29	77.00	129.60	141.45	156.35	160.25	168.25	173.10	211.15
30	79.20	133.60	145.90	161.20	164.80	173.10	178.60	217.85
31	81.15	137.60	150.30	166.05	170.05	178.50	184.25	224.75
32	83.30	141.80	154.85	170.90	175.00	183.65	189.70	231.50
33	85.90	145.70	159.25	175.75	180.15	188.95	195.15	238.05
34	88.35	149.60	163.85	180.70	185.10	194.10	200.60	244.75
35	90.60	153.65	168.15	185.30	190.10	199.20	206.05	251.40
36	92.95	157.75	172.70	190.30	195.30	204.60	211.60	258.20
37	94.95	161.60	177.15	195.10	200.50	209.95	217.15	264.90
38	97.20	165.75	181.65	200.00	205.45	215.10	222.50	271.55
39	99.60	169.75	186.20	204.85	210.25	220.05	228.05	278.25
40	101.75	173.60	190.70	209.75	215.40	225.30	233.65	285.05
41	103.70	177.70	195.15	214.50	220.60	230.75	239.10	291.60
42	105.55	181.80	199.65	219.30	225.80	236.05	244.50	298.30
43	108.00	185.70	204.00	224.10	230.75	241.15	250.05	305.05
44	109.95	189.75	208.55	228.95	235.70	246.35	255.50	311.70
45	112.05	193.80	212.90	233.65	240.80	251.55	261.10	318.50
46	114.25	197.70	217.60	238.60	245.80	256.70	266.50	325.15
47	116.65	201.70	222.00	243.40	250.90	261.90	272.00	331.85
48	118.65	205.85	226.40	248.05	255.95	267.10	277.50	338.55
49	120.80	209.70	230.95	252.85	261.20	272.45	283.00	345.35
50	123.35	213.85	235.45	257.80	266.05	277.45	288.45	351.90
51	125.55	217.90	239.90	262.50	271.05	282.55	293.20	357.75
52	127.65	221.70	244.30	267.20	276.30	287.90	299.60	365.45
53	129.75	225.85	248.85	272.00	281.35	293.10	305.05	372.15
54	132.05	229.85	253.25	276.70	286.45	298.30	310.50	378.80
55	134.70	235.15	257.90	281.60	291.40	303.35	315.95	385.45
56	137.50	239.30	262.25	286.25	296.40	308.55	321.45	392.20
57	139.90	243.30	266.75	291.05	301.45	313.70	326.90	398.80
58	142.25	247.15	271.20	295.70	306.55	318.90	332.40	405.50
59	144.25	251.15	275.60	300.45	311.75	324.10	337.90	412.20
60	146.15	255.20	280.10	305.20	316.75	329.25	343.35	418.90
61	148.20	259.25	284.85	310.20	321.85	334.35	348.85	425.60
62	150.55	263.20	289.20	314.70	326.80	339.45	354.45	432.40
63	153.00	267.15	293.65	319.45	331.90	344.70	359.95	439.15
64	155.10	271.15	298.10	324.10	337.05	349.90	365.45	445.90
65	157.75	275.15	302.55	328.80	342.05	354.85	370.90	452.45
66	160.70	279.30	307.10	333.65	347.15	360.00	376.35	459.05
67	162.55	283.20	311.65	338.40	352.00	365.00	381.85	465.85
68	164.65	287.20	316.10	343.00	357.30	370.35	387.50	472.75
69	167.25	291.25	320.50	347.70	362.20	375.35	392.75	479.15

RETAIL PRIORITY MAIL EXPRESS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
70	170.35	295.30	325.05	352.40	367.30	380.45	398.25	485.90

RETAIL FLAT RATE ENVELOPE

	($)
Retail Regular Flat Rate Envelope, per piece	24.70
Retail Legal Flat Rate Envelope, per piece	24.90
Retail Padded Flat Rate Envelope, per piece	25.40

COMMERCIAL BASE ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	21.98	21.98	22.69	24.66	26.39	28.02	29.87	36.44
1	21.98	22.94	27.63	30.93	32.03	33.99	35.04	42.76
2	21.98	24.48	30.12	33.70	35.09	37.15	38.45	46.92
3	21.98	25.62	33.86	38.78	40.46	42.86	44.05	53.72
4	21.98	27.29	36.10	43.86	45.58	48.26	49.55	60.47
5	22.98	30.64	38.49	46.92	51.23	53.67	55.12	67.22
6	26.22	34.99	44.49	53.18	55.95	58.82	60.63	73.95
7	28.74	38.34	50.98	58.15	60.78	64.25	66.55	81.21
8	31.56	42.06	55.24	62.53	65.97	69.75	71.66	87.42
9	32.80	43.73	57.29	66.89	71.09	75.14	77.15	94.14
10	34.52	45.59	59.48	69.89	74.76	79.01	81.02	98.82
11	35.94	50.24	65.48	73.62	77.24	81.57	83.64	102.04
12	37.87	53.77	69.58	77.52	80.72	85.29	87.36	106.59
13	40.08	57.26	72.78	81.06	84.10	88.81	92.44	112.76
14	41.92	60.78	75.64	84.21	87.64	92.54	96.24	117.41
15	43.27	64.16	78.84	87.78	91.21	96.24	100.11	122.12
16	45.16	67.83	81.94	91.16	95.17	100.38	103.45	126.22
17	46.91	71.36	85.05	94.51	98.37	103.68	106.37	129.74
18	48.79	74.76	88.06	97.85	101.79	107.35	110.17	134.41
19	50.52	78.28	91.07	101.14	105.33	110.97	113.84	138.87
20	52.68	81.81	95.58	106.08	109.42	115.30	118.92	145.08
21	53.87	86.93	98.59	109.42	114.26	120.33	123.39	150.53
22	55.88	90.56	102.92	114.17	117.89	124.06	128.14	156.33
23	57.54	94.04	105.93	117.50	121.51	127.85	131.86	160.88
24	59.65	97.65	109.38	121.23	125.18	131.67	134.78	164.41
25	62.05	101.29	112.01	124.06	128.57	135.19	139.01	169.58
26	63.41	104.90	115.25	127.63	132.18	138.96	142.96	174.43
27	65.25	108.34	118.26	130.87	135.67	142.58	146.72	178.99
28	66.57	111.96	122.03	135.01	139.20	146.26	150.58	183.70
29	68.64	115.49	126.03	139.33	142.82	149.92	154.26	188.16
30	70.57	119.07	130.02	143.66	146.92	154.26	159.14	194.15
31	72.31	122.64	133.93	147.99	151.57	159.05	164.17	200.30
32	74.23	126.35	137.98	152.28	155.98	163.66	169.07	206.28
33	76.54	129.83	141.93	156.61	160.56	168.36	173.91	212.15
34	78.74	133.32	146.02	161.07	164.98	172.97	178.75	218.08
35	80.77	136.94	149.83	165.17	169.40	177.53	183.65	224.06
36	82.84	140.55	153.91	169.58	174.06	182.33	188.59	230.08
37	84.63	144.04	157.87	173.86	178.66	187.09	193.52	236.10
38	86.61	147.70	161.87	178.25	183.08	191.69	198.33	241.97
39	88.77	151.29	165.92	182.52	187.37	196.12	203.26	248.00
40	90.66	154.72	169.97	186.94	191.93	200.82	208.20	254.02
41	92.44	158.40	173.91	191.17	196.59	205.66	213.05	259.91
42	94.08	162.01	177.91	195.46	201.19	210.36	217.89	265.83
43	96.24	165.49	181.82	199.69	205.66	214.94	222.84	271.85
44	97.99	169.12	185.87	204.02	210.08	219.54	227.68	277.78
45	99.88	172.73	189.72	208.20	214.60	224.19	232.67	283.85
46	101.84	176.18	193.96	212.67	219.08	228.77	237.51	289.77
47	103.96	179.79	197.85	216.92	223.59	233.41	242.41	295.75
48	105.75	183.46	201.76	221.04	228.10	238.03	247.30	301.72
49	107.63	186.90	205.81	225.33	232.76	242.82	252.23	307.74
50	109.94	190.56	209.86	229.75	237.09	247.25	257.08	313.63
51	111.86	194.19	213.81	233.94	241.56	251.82	261.32	318.80
52	113.80	197.57	217.70	238.12	246.22	256.56	266.96	325.71

COMMERCIAL BASE ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
53	115.63	201.25	221.80	242.41	250.73	261.22	271.85	331.63
54	117.70	204.87	225.70	246.59	255.24	265.83	276.70	337.57
55	120.05	209.57	229.84	250.97	259.71	270.35	281.54	343.50
56	122.54	213.24	233.75	255.11	264.18	274.96	286.48	349.51
57	124.66	216.81	237.74	259.38	268.65	279.56	291.33	355.40
58	126.78	220.25	241.69	263.52	273.21	284.18	296.22	361.37
59	128.52	223.82	245.65	267.75	277.83	288.83	301.11	367.34
60	130.27	227.40	249.65	271.99	282.30	293.40	306.01	373.31
61	132.09	231.06	253.83	276.41	286.81	297.96	310.89	379.30
62	134.16	234.54	257.69	280.45	291.24	302.47	315.88	385.36
63	136.37	238.08	261.69	284.69	295.79	307.18	320.82	391.37
64	138.20	241.65	265.64	288.83	300.36	311.78	325.71	397.36
65	140.55	245.23	269.60	293.02	304.83	316.26	330.51	403.24
66	143.19	248.90	273.69	297.35	309.34	320.87	335.36	409.11
67	144.85	252.37	277.73	301.59	313.72	325.29	340.30	415.14
68	146.76	255.96	281.68	305.67	318.43	330.09	345.33	421.30
69	149.08	259.57	285.63	309.86	322.80	334.51	349.99	426.99
70	151.80	263.15	289.68	314.04	327.36	339.07	354.93	433.01

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	21.98
Commercial Base Legal Flat Rate Envelope, per piece	22.09
Commercial Base Padded Flat Rate Envelope, per piece	22.46

COMMERCIAL PLUS ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	21.98	21.98	22.69	24.66	26.39	28.02	29.87	36.44
1	21.98	22.94	27.63	30.93	32.03	33.99	35.04	42.76
2	21.98	24.48	30.12	33.70	35.09	37.15	38.45	46.92
3	21.98	25.62	33.86	38.78	40.46	42.86	44.05	53.72
4	21.98	27.29	36.10	43.86	45.58	48.26	49.55	60.47
5	22.98	30.64	38.49	46.92	51.23	53.67	55.12	67.22
6	26.22	34.99	44.49	53.18	55.95	58.82	60.63	73.95
7	28.74	38.34	50.98	58.15	60.78	64.25	66.55	81.21
8	31.56	42.06	55.24	62.53	65.97	69.75	71.66	87.42
9	32.80	43.73	57.29	66.89	71.09	75.14	77.15	94.14
10	34.52	45.59	59.48	69.89	74.76	79.01	81.02	98.82
11	35.94	50.24	65.48	73.62	77.24	81.57	83.64	102.04
12	37.87	53.77	69.58	77.52	80.72	85.29	87.36	106.59
13	40.08	57.26	72.78	81.06	84.10	88.81	92.44	112.76
14	41.92	60.78	75.64	84.21	87.64	92.54	96.24	117.41
15	43.27	64.16	78.84	87.78	91.21	96.24	100.11	122.12
16	45.16	67.83	81.94	91.16	95.17	100.38	103.45	126.22
17	46.91	71.36	85.05	94.51	98.37	103.68	106.37	129.74
18	48.79	74.76	88.06	97.85	101.79	107.35	110.17	134.41
19	50.52	78.28	91.07	101.14	105.33	110.97	113.84	138.87
20	52.68	81.81	95.58	106.08	109.42	115.30	118.92	145.08
21	53.87	86.93	98.59	109.42	114.26	120.33	123.39	150.53
22	55.88	90.56	102.92	114.17	117.89	124.06	128.14	156.33
23	57.54	94.04	105.93	117.50	121.51	127.85	131.86	160.88
24	59.65	97.65	109.38	121.23	125.18	131.67	134.78	164.41
25	62.05	101.29	112.01	124.06	128.57	135.19	139.01	169.58
26	63.41	104.90	115.25	127.63	132.18	138.96	142.96	174.43
27	65.25	108.34	118.26	130.87	135.67	142.58	146.72	178.99
28	66.57	111.96	122.03	135.01	139.20	146.26	150.58	183.70
29	68.64	115.49	126.03	139.33	142.82	149.92	154.26	188.16
30	70.57	119.07	130.02	143.66	146.92	154.26	159.14	194.15
31	72.31	122.64	133.93	147.99	151.57	159.05	164.17	200.30
32	74.23	126.35	137.98	152.28	155.98	163.66	169.07	206.28
33	76.54	129.83	141.93	156.61	160.56	168.36	173.91	212.15
34	78.74	133.32	146.02	161.07	164.98	172.97	178.75	218.08
35	80.77	136.94	149.83	165.17	169.40	177.53	183.65	224.06

COMMERCIAL PLUS ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
36	82.84	140.55	153.91	169.58	174.06	182.33	188.59	230.08
37	84.63	144.04	157.87	173.86	178.66	187.09	193.52	236.10
38	86.61	147.70	161.87	178.25	183.08	191.69	198.33	241.97
39	88.77	151.29	165.92	182.52	187.37	196.12	203.26	248.00
40	90.66	154.72	169.97	186.94	191.93	200.82	208.20	254.02
41	92.44	158.40	173.91	191.17	196.59	205.66	213.05	259.91
42	94.08	162.01	177.91	195.46	201.19	210.36	217.89	265.83
43	96.24	165.49	181.82	199.69	205.66	214.94	222.84	271.85
44	97.99	169.12	185.87	204.02	210.08	219.54	227.68	277.78
45	99.88	172.73	189.72	208.20	214.60	224.19	232.67	283.85
46	101.84	176.18	193.96	212.67	219.08	228.77	237.51	289.77
47	103.96	179.79	197.85	216.92	223.59	233.41	242.41	295.75
48	105.75	183.46	201.76	221.04	228.10	238.03	247.30	301.72
49	107.63	186.90	205.81	225.33	232.76	242.82	252.23	307.74
50	109.94	190.56	209.86	229.75	237.09	247.25	257.08	313.63
51	111.86	194.19	213.81	233.94	241.56	251.82	261.32	318.80
52	113.80	197.57	217.70	238.12	246.22	256.56	266.96	325.71
53	115.63	201.25	221.80	242.41	250.73	261.22	271.85	331.63
54	117.70	204.87	225.70	246.59	255.24	265.83	276.70	337.57
55	120.05	209.57	229.84	250.97	259.71	270.35	281.54	343.50
56	122.54	213.24	233.75	255.11	264.18	274.96	286.48	349.51
57	124.66	216.81	237.74	259.38	268.65	279.56	291.33	355.40
58	126.78	220.25	241.69	263.52	273.21	284.18	296.22	361.37
59	128.52	223.82	245.65	267.75	277.83	288.83	301.11	367.34
60	130.27	227.40	249.65	271.99	282.30	293.40	306.01	373.31
61	132.09	231.06	253.83	276.41	286.81	297.96	310.89	379.30
62	134.16	234.54	257.69	280.45	291.24	302.47	315.88	385.36
63	136.37	238.08	261.69	284.69	295.79	307.18	320.82	391.37
64	138.20	241.65	265.64	288.83	300.36	311.78	325.71	397.36
65	140.55	245.23	269.60	293.02	304.83	316.26	330.51	403.24
66	143.19	248.90	273.69	297.35	309.34	320.87	335.36	409.11
67	144.85	252.37	277.73	301.59	313.72	325.29	340.30	415.14
68	146.76	255.96	281.68	305.67	318.43	330.09	345.33	421.30
69	149.08	259.57	285.63	309.86	322.80	334.51	349.99	426.99
70	151.80	263.15	289.68	314.04	327.36	339.07	354.93	433.01

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	21.98
Commercial Plus Legal Flat Rate Envelope, per piece	22.09
Commercial Plus Padded Flat Rate Envelope, per piece	22.46

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

Sunday/Holiday Delivery

Add $12.50 for requesting Sunday or holiday delivery.

10:30 am Delivery

Add $5.00 for requesting delivery by 10:30 am.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2110 Priority Mail

* * *

2110.6 Prices

RETAIL PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	6.70	7.15	7.30	7.45	7.60	7.85	8.45	10.60
2	7.25	7.70	8.75	9.85	10.65	11.80	12.90	16.85
3	7.90	8.80	10.15	11.75	13.35	14.65	17.30	22.55
4	8.50	9.90	11.15	13.50	16.45	18.00	20.05	26.15
5	9.85	10.95	11.95	14.15	18.70	20.65	23.15	30.25
6	10.40	11.30	12.50	15.10	20.80	22.40	25.25	34.15
7	11.10	12.15	14.30	18.05	23.05	25.15	28.45	38.40

RETAIL PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
8	11.45	13.50	15.90	20.95	25.25	27.80	31.80	42.95
9	11.90	14.55	17.60	23.90	27.50	30.05	35.40	47.80
10	12.65	15.60	18.95	25.95	29.70	33.05	38.60	52.10
11	13.50	16.70	20.35	28.00	31.90	36.50	42.35	57.65
12	14.70	17.90	21.85	30.00	34.70	39.45	45.45	61.85
13	15.55	19.00	23.10	31.70	37.25	41.05	47.10	64.10
14	16.50	20.20	24.55	33.70	39.30	43.35	49.45	67.30
15	17.20	21.30	25.95	35.65	41.00	44.30	50.80	69.20
16	17.70	22.45	27.35	37.65	43.30	46.75	53.65	73.00
17	18.50	23.65	28.80	39.60	45.50	49.25	56.45	76.85
18	18.85	24.50	30.00	41.55	47.90	51.65	59.35	80.80
19	19.35	25.05	30.70	42.70	48.85	52.75	60.60	84.60
20	20.20	25.35	31.15	43.40	50.00	54.65	63.40	88.50
21	20.85	25.70	31.60	44.05	50.85	55.55	64.85	91.25
22	21.35	26.30	32.35	45.10	52.00	56.90	66.40	93.50
23	21.85	26.80	32.90	45.85	52.95	58.00	67.60	95.15
24	22.35	27.35	33.65	46.85	54.05	59.45	69.25	97.50
25	22.55	27.85	35.00	47.65	54.75	60.95	70.40	99.10
26	23.50	28.35	36.35	48.60	56.10	62.45	72.65	102.25
27	24.20	28.75	37.45	49.55	56.90	63.90	75.35	106.10
28	24.95	29.15	38.55	50.80	57.65	65.35	78.20	110.10
29	25.70	29.45	39.50	51.55	58.65	66.85	80.30	113.05
30	26.45	29.85	40.45	52.25	60.25	68.40	82.05	115.50
31	27.25	30.15	41.10	52.95	61.15	69.85	83.70	118.80
32	27.55	30.80	41.80	53.55	61.95	71.35	85.40	121.20
33	28.00	31.65	42.85	54.25	63.15	72.85	87.00	123.50
34	28.25	32.50	43.90	55.40	64.60	74.35	88.65	125.80
35	28.55	33.30	44.50	56.60	66.35	75.80	90.10	127.90
36	28.85	34.20	45.10	57.80	68.05	76.85	91.70	130.10
37	29.15	34.85	45.75	58.85	69.80	77.85	93.20	132.25
38	29.45	35.70	46.35	60.00	71.75	78.80	94.70	134.40
39	29.75	36.50	46.90	61.25	73.50	80.80	96.10	136.40
40	30.10	37.30	47.55	62.55	74.65	82.65	97.45	138.30
41	30.40	38.00	48.05	63.15	75.85	84.40	98.85	141.40
42	30.65	38.70	48.60	64.50	77.20	85.50	100.20	143.35
43	31.00	39.30	49.05	65.95	79.10	86.60	101.45	145.15
44	31.20	39.95	49.65	67.30	80.35	87.60	102.65	146.90
45	31.40	40.40	50.00	68.85	81.20	88.60	103.95	148.75
46	31.65	40.70	50.55	70.10	82.10	89.55	105.20	150.55
47	31.95	41.05	51.00	71.70	83.00	90.55	106.35	152.15
48	32.20	41.40	51.50	73.10	84.10	91.40	107.50	153.80
49	32.40	41.70	51.90	74.45	85.20	92.35	108.60	155.35
50	32.55	41.95	52.25	75.90	86.35	93.55	109.70	
51	32.70	42.35	52.75	77.15	87.55	94.90	110.70	159.65
52	33.10	42.60	53.10	77.80	88.45	96.30	112.00	161.60
53	33.65	42.90	53.45	78.40	89.20	97.85	113.45	163.70
54	34.10	43.10	53.80	79.05	89.85	99.30	115.10	165.95
55	34.70	43.40	54.10	79.60	90.55	100.85	116.60	168.20
56	35.15	43.65	54.40	80.15	91.15	102.30	117.70	169.75
57	35.65	43.80	54.75	80.60	91.85	103.85	118.55	171.00
58	36.25	44.00	55.05	81.15	92.35	105.25	119.45	172.25
59	36.80	44.20	55.35	81.65	92.90	105.90	120.40	173.65
60	37.30	44.40	55.90	82.05	93.40	106.55	121.15	174.80
61	37.85	44.60	56.90	82.45	93.90	107.15	122.80	177.20
62	38.25	44.70	57.60	82.90	94.40	107.65	124.80	180.00
63	39.00	44.95	58.55	83.30	94.90	108.15	126.80	182.90
64	39.35	45.05	59.40	83.65	95.25	108.70	128.70	185.65
65	39.90	45.15	60.20	83.95	95.60	109.20	130.75	188.60
66	40.40	45.35	61.15	84.35	96.05	109.55	132.60	191.30
67	41.05	45.45	62.20	84.65	96.35	110.00	134.35	193.80
68	41.55	45.55	63.00	84.85	97.55	110.40	135.80	195.90
69	42.10	45.60	63.75	85.05	98.75	110.70	137.25	197.95
70	42.55	45.70	64.80	85.35	99.95	111.10	138.75	200.10

RETAIL FLAT RATE ENVELOPES [1]

	($)
Retail Regular Flat Rate Envelope, per piece	6.70

RETAIL FLAT RATE ENVELOPES [1]—Continued

	($)
Retail Legal Flat Rate Envelope, per piece	7.00
Retail Padded Flat Rate Envelope, per piece	7.25

Notes

1. The price for Regular, Legal, or Padded Flat Rate Envelopes also applies to sales of Regular, Legal, or Padded Flat Rate Envelopes, respectively, marked with Forever postage, at the time the envelopes are purchased.

RETAIL FLAT RATE BOXES [1]

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.20	7.20
Medium Flat Rate Boxes	13.65	13.65
Large Flat Rate Boxes	18.90	17.40

Notes

1. The price for Small, Medium, or Large Flat Rate Boxes also applies to sales of Small, Medium, or Large Flat Rate Boxes, respectively, marked with Forever postage, at the time the boxes are purchased.

REGIONAL RATE BOXES

Size	Local, Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	9.35	9.50	9.65	10.40	11.72	12.54	13.05	17.58
B	9.66	10.67	11.62	12.90	18.40	20.72	23.28	31.40

Retail Balloon Price

In Zones 1–4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.

Retail Dimensional Weight

In Zones 5–8, parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 194.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 194, and multiplying by an adjustment factor of 0.785.

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
1	6.55	7.00	7.10	7.20	7.35	7.50	7.76	10.02
2	7.10	7.25	7.40	8.15	9.47	10.29	10.80	15.33
3	7.20	7.68	8.47	9.26	12.16	13.15	15.34	20.80
4	7.31	8.05	8.69	10.34	14.18	16.07	18.15	25.05
5	7.41	8.42	9.37	10.65	16.15	18.47	21.03	29.15
6	7.52	8.79	9.71	14.20	18.12	21.05	24.07	33.40
7	8.04	9.64	10.04	15.60	20.07	23.74	27.04	37.51
8	8.49	9.93	11.33	17.36	22.05	26.13	30.36	42.11
9	8.72	10.21	11.41	18.62	23.99	28.30	33.75	46.82
10	9.23	10.49	11.46	20.11	25.91	31.12	36.71	50.92
11	10.78	12.91	13.83	21.54	27.81	33.87	39.76	55.63
12	11.44	13.73	16.10	23.06	30.33	36.62	42.65	59.65
13	12.04	14.51	16.86	24.28	32.56	38.10	44.16	61.77
14	12.66	15.31	17.75	25.71	34.38	40.22	46.35	64.83
15	13.15	16.11	18.62	27.03	35.71	40.99	47.57	66.55
16	13.60	16.97	19.63	28.37	37.74	43.30	50.19	70.21
17	14.03	17.75	20.57	29.75	39.65	45.55	52.85	73.90
18	14.30	18.30	21.49	31.09	41.75	47.79	55.50	77.64
19	14.64	18.73	21.98	31.91	43.62	50.02	58.13	81.31
20	15.22	19.02	22.43	32.49	44.75	51.89	60.82	85.06
21	15.88	19.48	22.94	33.07	45.11	52.37	61.60	86.88

COMMERCIAL BASE PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
22	16.38	20.00	23.72	33.73	45.41	52.78	62.31	87.89
23	16.87	20.48	24.27	34.34	45.67	53.15	62.69	88.41
24	17.56	21.34	25.66	35.70	46.63	54.53	64.21	90.57
25	18.24	22.11	27.27	36.89	47.31	55.89	65.33	92.13
26	19.33	23.71	30.13	38.86	48.46	57.26	67.37	95.01
27	20.49	24.76	31.97	42.36	49.12	58.60	69.90	98.61
28	21.12	25.10	32.87	43.46	49.78	59.97	72.53	102.30
29	21.76	25.35	33.75	44.04	50.62	61.34	74.48	105.03
30	22.41	25.73	34.56	44.65	52.04	62.69	76.08	107.30
31	23.03	25.97	35.09	45.21	52.79	64.07	77.64	110.39
32	23.30	26.52	35.68	45.74	53.49	65.45	79.22	112.64
33	23.66	27.25	36.57	46.34	54.52	66.79	80.68	114.72
34	23.88	27.97	37.49	47.34	55.81	68.18	82.20	116.89
35	24.15	28.64	38.03	48.34	57.30	69.54	83.61	118.88
36	24.45	29.46	38.53	49.39	58.75	70.49	85.02	120.91
37	24.71	30.01	39.09	50.27	60.28	71.38	86.41	122.90
38	24.94	30.74	39.58	51.27	61.97	72.21	87.79	124.86
39	25.19	31.45	40.04	52.33	63.43	74.11	89.16	126.79
40	25.45	32.12	40.55	53.42	64.45	75.76	90.37	128.51
41	25.73	32.66	40.98	53.90	65.54	77.38	91.68	131.40
42	25.91	32.90	41.35	54.80	66.69	78.44	92.92	133.20
43	26.21	33.14	41.72	55.71	68.28	79.41	94.12	134.90
44	26.39	33.38	42.08	56.61	69.37	80.35	95.18	136.46
45	26.56	33.62	42.45	57.52	70.14	81.23	96.38	138.18
46	26.79	33.86	42.81	58.42	70.92	82.10	97.54	139.82
47	27.00	34.10	43.18	59.33	71.66	83.04	98.63	141.39
48	27.22	34.34	43.54	60.23	72.58	83.83	99.68	142.92
49	27.43	34.58	43.91	61.14	73.57	84.71	100.69	144.32
50	27.54	34.82	44.27	62.04	74.60	85.78	101.74	145.86
51	27.94	35.06	44.64	63.10	75.62	87.01	102.69	148.40
52	28.37	35.30	45.00	63.54	76.36	88.32	103.90	150.13
53	28.89	35.54	45.37	64.06	77.01	89.77	105.23	152.05
54	29.31	35.78	45.73	64.62	77.55	91.06	106.71	154.19
55	29.77	36.02	46.10	65.03	78.19	92.50	108.14	156.25
56	30.18	36.26	46.46	65.51	78.72	93.80	109.24	157.87
57	30.67	36.50	46.83	65.91	79.31	95.23	110.21	159.28
58	31.12	36.74	47.19	66.32	79.77	96.49	111.12	160.57
59	31.57	36.98	47.56	66.73	80.24	97.15	111.94	161.77
60	31.97	37.22	47.92	67.09	80.64	97.72	112.74	162.91
61	32.48	37.46	48.29	67.43	81.08	98.28	114.25	165.12
62	32.88	37.70	48.65	67.73	81.46	98.72	116.07	167.73
63	33.47	37.94	49.02	68.08	81.93	99.20	117.93	170.41
64	33.76	38.18	49.38	68.38	82.29	99.65	119.74	173.04
65	34.26	38.42	49.75	68.60	82.53	100.14	121.61	175.75
66	34.71	38.66	50.11	68.91	82.95	100.44	123.38	178.30
67	35.23	38.90	50.96	69.16	83.22	100.85	125.02	180.65
68	35.64	39.14	51.61	69.34	84.25	101.37	126.34	182.57
69	36.13	39.38	52.26	69.55	85.26	101.85	127.68	184.52
70	36.50	39.62	53.08	69.77	86.29	102.22	129.05	186.49

COMMERCIAL BASE FLAT RATE ENVELOPE

	($)
Commercial Base Regular Flat Rate Envelope, per piece	6.55
Commercial Base Legal Flat Rate Envelope, per piece	6.85
Commercial Base Padded Flat Rate Envelope, per piece	7.10

COMMERCIAL BASE FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	7.05	7.05
Regular Flat Rate Boxes	12.85	12.85
Large Flat Rate Boxes	17.65	16.15

COMMERCIAL BASE REGIONAL RATE BOXES

Size	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.10	7.25	7.40	8.15	9.47	10.29	10.80	15.33
B	7.41	8.42	9.37	10.65	16.15	18.47	21.03	29.15

Commercial Base Balloon Price

In Zones 1–4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.

Commercial Base Dimensional Weight

In Zones 5–8, parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 194.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel, dividing by 194, and multiplying by an adjustment factor of 0.785.

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 $)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.5	6.35	6.79	6.89	6.98	7.13	7.28	7.53	9.72
1	6.35	6.79	6.89	6.98	7.13	7.28	7.53	9.72
2	6.89	7.03	7.18	7.91	9.19	9.98	10.48	14.87
3	6.98	7.45	8.22	8.98	11.80	12.76	14.88	20.18
4	7.09	7.81	8.43	10.03	13.75	15.59	17.61	24.30
5	7.19	8.17	9.09	10.33	15.67	17.92	20.40	28.28
6	7.29	8.53	9.42	13.77	17.58	20.42	23.35	32.40
7	7.80	9.35	9.74	15.13	19.47	23.03	26.23	36.38
8	8.24	9.63	10.99	16.84	21.39	25.35	29.45	40.85
9	8.46	9.90	11.07	18.06	23.27	27.45	32.74	45.42
10	8.95	10.18	11.12	19.51	25.13	30.19	35.61	49.39
11	10.46	12.52	13.42	20.89	26.98	32.85	38.57	53.96
12	11.10	13.32	15.62	22.37	29.42	35.52	41.37	57.86
13	11.68	14.07	16.35	23.55	31.58	36.96	42.84	59.92
14	12.28	14.85	17.22	24.94	33.35	39.01	44.96	62.89
15	12.76	15.63	18.06	26.22	34.64	39.76	46.14	64.55
16	13.19	16.46	19.04	27.52	36.61	42.00	48.68	68.10
17	13.61	17.22	19.95	28.86	38.46	44.18	51.26	71.68
18	13.87	17.75	20.85	30.16	40.50	46.36	53.84	75.31
19	14.20	18.17	21.32	30.95	42.31	48.52	56.39	78.87
20	14.76	18.45	21.76	31.52	43.41	50.33	59.00	82.51
21	15.40	18.90	22.25	32.08	43.76	50.80	59.75	84.27
22	15.89	19.40	23.01	32.72	44.05	51.20	60.44	85.25
23	16.36	19.87	23.54	33.31	44.30	51.56	60.81	85.76
24	17.03	20.70	24.89	34.63	45.23	52.89	62.28	87.85
25	17.69	21.45	26.45	35.78	45.89	54.21	63.37	89.37
26	18.75	23.00	29.23	37.69	47.01	55.54	65.35	92.16
27	19.88	24.02	31.01	41.09	47.65	56.84	67.80	95.65
28	20.49	24.35	31.88	42.16	48.29	58.17	70.35	99.23
29	21.11	24.59	32.74	42.72	49.10	59.50	72.25	101.88
30	21.74	24.96	33.52	43.31	50.48	60.81	73.80	104.08
31	22.34	25.19	34.04	43.85	51.21	62.15	75.31	107.08
32	22.60	25.72	34.61	44.37	51.89	63.49	76.84	109.26
33	22.95	26.43	35.47	44.95	52.88	64.79	78.26	111.28
34	23.16	27.13	36.37	45.92	54.14	66.13	79.73	113.38
35	23.43	27.78	36.89	46.89	55.58	67.45	81.10	115.31
36	23.72	28.58	37.37	47.91	56.99	68.38	82.47	117.28
37	23.97	29.11	37.92	48.76	58.47	69.24	83.82	119.21
38	24.19	29.82	38.39	49.73	60.11	70.04	85.16	121.11
39	24.43	30.51	38.84	50.76	61.53	71.89	86.49	122.99
40	24.69	31.16	39.33	51.82	62.52	73.49	87.66	124.65
41	24.96	31.68	39.75	52.28	63.57	75.06	88.93	127.46
42	25.13	31.91	40.11	53.16	64.69	76.09	90.13	129.20
43	25.42	32.15	40.47	54.04	66.23	77.03	91.30	130.85
44	25.60	32.38	40.82	54.91	67.29	77.94	92.32	132.37
45	25.76	32.61	41.18	55.79	68.04	78.79	93.49	134.03

COMMERCIAL PLUS PRIORITY MAIL ZONE/WEIGHT—Continued

Maximum weight (pounds)	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 $)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
46	25.99	32.84	41.53	56.67	68.79	79.64	94.61	135.63
47	26.19	33.08	41.88	57.55	69.51	80.55	95.67	137.15
48	26.40	33.31	42.23	58.42	70.40	81.32	96.69	138.63
49	26.61	33.54	42.59	59.31	71.36	82.17	97.67	139.99
50	26.71	33.78	42.94	60.18	72.36	83.21	98.69	141.48
51	27.10	34.01	43.30	61.21	73.35	84.40	99.61	143.95
52	27.52	34.24	43.65	61.63	74.07	85.67	100.78	145.63
53	28.02	34.47	44.01	62.14	74.70	87.08	102.07	147.49
54	28.43	34.71	44.36	62.68	75.22	88.33	103.51	149.56
55	28.88	34.94	44.72	63.08	75.84	89.73	104.90	151.56
56	29.27	35.17	45.07	63.54	76.36	90.99	105.96	153.13
57	29.75	35.41	45.43	63.93	76.93	92.37	106.90	154.50
58	30.19	35.64	45.77	64.33	77.38	93.60	107.79	155.75
59	30.62	35.87	46.13	64.73	77.83	94.24	108.58	156.92
60	31.01	36.10	46.48	65.08	78.22	94.79	109.36	158.02
61	31.51	36.34	46.84	65.41	78.65	95.33	110.82	160.17
62	31.89	36.57	47.19	65.70	79.02	95.76	112.59	162.70
63	32.47	36.80	47.55	66.04	79.47	96.22	114.39	165.30
64	32.75	37.03	47.90	66.33	79.82	96.66	116.15	167.85
65	33.23	37.27	48.26	66.54	80.05	97.14	117.96	170.48
66	33.67	37.50	48.61	66.84	80.46	97.43	119.68	172.95
67	34.17	37.73	49.43	67.09	80.72	97.82	121.27	175.23
68	34.57	37.97	50.06	67.26	81.72	98.33	122.55	177.09
69	35.05	38.20	50.69	67.46	82.70	98.79	123.85	178.98
70	35.41	38.43	51.49	67.68	83.70	99.15	125.18	180.90

COMMERCIAL PLUS FLAT RATE ENVELOPE

	($)
Commercial Plus Regular Flat Rate Envelope, per piece	6.35
Commercial Plus Legal Flat Rate Envelope, per piece	6.65
Commercial Plus Padded Flat Rate Envelope, per piece	6.90

COMMERCIAL PLUS FLAT RATE BOX

Size	Delivery to domestic address ($)	Delivery to APO/FPO/DPO address ($)
Small Flat Rate Box	6.85	6.85
Medium Flat Rate Boxes	12.45	12.45
Large Flat Rate Boxes	17.10	15.60

COMMERCIAL PLUS REGIONAL RATE BOXES

Maximum Cubic Feet	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
A	7.10	7.25	7.40	8.15	9.47	10.29	10.80	15.33
B	7.41	8.42	9.37	10.65	16.15	18.47	21.03	29.15

Commercial Plus Balloon Price

In Zones 1–4 (including local), parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth (but not more than 108 inches) are charged the applicable price for a 20-pound parcel.

Commercial Plus Dimensional Weight

In Zones 5–8, parcels exceeding one cubic foot are priced at the actual weight or the dimensional weight, whichever is greater.

For box-shaped parcels, the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) of the parcel, and dividing by 194.

For irregular-shaped parcels (parcels not appearing box-shaped), the dimensional weight (pounds) is calculated by multiplying the length (inches) times the width (inches) times the height (inches) at the associated maximum cross-sections of the parcel,

dividing by 194, and multiplying by an adjustment factor of 0.785.

COMMERCIAL PLUS CUBIC

Maximum cubic feet	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
0.10	6.35	6.79	6.89	6.98	7.13	7.28	7.53	9.72
0.20	6.80	7.13	7.20	7.49	7.88	8.22	8.46	11.34
0.30	7.19	7.36	7.52	8.23	9.48	10.26	10.76	15.19
0.40	7.31	7.67	8.29	9.06	11.53	12.48	14.17	19.44
0.50	7.41	8.08	8.78	10.17	13.76	15.39	17.54	24.07

OPEN AND DISTRIBUTE (PMOD)

Container	Local, zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)	Zone 9 ($)
a. DDU								
Half Tray	8.24	10.09	12.19	19.61	19.87	21.60	23.98	29.98
Full Tray	11.20	14.01	16.31	28.55	32.81	34.86	38.90	48.62
EMM Tray	12.84	15.30	18.90	31.58	34.67	38.07	42.33	52.91
Flat Tub	18.35	23.00	28.44	48.10	58.06	62.77	69.86	87.33
b. Processing Facilities								
Half Tray	6.53	8.27	10.16	17.71	18.10	19.80	21.25	26.57
Full Tray	8.45	10.89	13.56	24.74	29.24	31.30	34.98	43.73
EMM Tray	10.08	11.68	15.91	27.31	31.02	34.16	39.47	49.34
Flat Tub	14.42	19.06	24.15	44.10	53.86	58.63	64.49	80.62

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

IMpb-Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2115 Parcel Select

* * *

2115.6 Prices

a. DDU

DESTINATION ENTERED—DDU

Maximum weight (pounds)	DDU ($)
1	2.85
2	2.95
3	3.04
4	3.13
5	3.22
6	3.30
7	3.38
8	3.46
9	3.54
10	3.61
11	3.68
12	3.74
13	3.80
14	3.86
15	3.92
16	3.98
17	4.04
18	4.10
19	4.16
20	4.22
21	4.28
22	4.34
23	4.40
24	4.46
25	4.52

DESTINATION ENTERED—DDU—Continued

Maximum weight (pounds)	DDU ($)
26	4.58
27	4.64
28	4.70
29	4.76
30	4.82
31	4.88
32	4.94
33	5.00
34	5.06
35	5.12
36	5.18
37	5.24
38	5.30
39	5.36
40	5.42
41	5.48
42	5.54
43	5.60
44	5.66
45	5.72
46	5.78
47	5.84
48	5.90
49	5.96
50	6.02
51	6.08
52	6.14
53	6.20
54	6.26
55	6.32
56	6.38
57	6.44
58	6.50
59	6.56
60	6.62
61	6.68
62	6.74
63	6.81
64	6.88
65	6.95
66	7.02
67	7.09
68	7.16
69	7.23
70	7.30
Oversized	10.71

b. Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. DSCF—5-Digit Machinable

DESTINATION ENTERED—DSCF

Maximum weight (pounds)	DSCF 5-digit ($)
1	3.93
2	4.09
3	4.24
4	4.39
5	4.54

DESTINATION ENTERED—DSCF—Continued

Maximum weight (pounds)	DSCF 5-digit ($)
6	4.69
7	4.84
8	4.99
9	5.14
10	5.29
11	5.44
12	5.59
13	5.74
14	5.89
15	6.04
16	6.19
17	6.34
18	6.49
19	6.64
20	6.79
21	6.94
22	7.09
23	7.24
24	7.39
25	7.54
26	7.69
27	7.84
28	7.99
29	8.14
30	8.29
31	8.44
32	8.59
33	8.74
34	8.89
35	9.04

b. DSCF—3-Digit, 5-Digit Non-Machinable

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
1	5.43	3.93
2	5.59	4.09
3	5.74	4.24
4	5.89	4.39
5	6.04	4.54
6	6.19	4.69
7	6.34	4.84
8	6.49	4.99
9	6.64	5.14
10	6.79	5.29
11	6.94	5.44
12	7.09	5.59
13	7.24	5.74
14	7.39	5.89
15	7.54	6.04
16	7.69	6.19
17	7.84	6.34
18	7.99	6.49
19	8.14	6.64
20	8.29	6.79
21	8.44	6.94
22	8.59	7.09
23	8.74	7.24
24	8.89	7.39
25	9.04	7.54
26	9.19	7.69
27	9.34	7.84
28	9.49	7.99
29	9.64	8.14
30	9.79	8.29
31	9.94	8.44
32	10.09	8.59

Maximum weight (pounds)	DSCF 3-digit ($)	DSCF 5-digit ($)
33	10.24	8.74
34	10.39	8.89
35	10.54	9.04
36	10.69	9.19
37	10.84	9.34
38	10.99	9.49
39	11.14	9.64
40	11.29	9.79
41	11.44	9.94
42	11.59	10.09
43	11.74	10.24
44	11.89	10.39
45	12.04	10.54
46	12.19	10.69
47	12.34	10.84
48	12.49	10.99
49	12.64	11.14
50	12.79	11.29
51	12.93	11.43
52	13.07	11.57
53	13.21	11.71
54	13.35	11.85
55	13.49	11.99
56	13.63	12.13
57	13.77	12.27
58	13.91	12.41
59	14.05	12.55
60	14.19	12.69
61	14.33	12.83
62	14.47	12.97
63	14.61	13.11
64	14.75	13.25
65	14.89	13.39
66	15.03	13.53
67	15.17	13.67
68	15.31	13.81
69	15.45	13.95
70	15.59	14.09
Oversized	21.28	21.28

c. Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. DNDC—Machinable

DESTINATION ENTERED—DNDC

Maximum weight (pounds)	DNDC zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	5.28	6.07	6.97	7.96
2	5.53	6.53	7.55	8.61
3	5.79	6.99	8.14	9.25
4	6.05	7.45	8.73	9.89
5	6.31	7.91	9.32	10.53
6	6.57	8.37	9.91	11.17
7	6.83	8.83	10.50	11.81
8	7.09	9.29	11.09	12.45
9	7.35	9.75	11.67	13.09
10	7.61	10.21	12.24	13.72
11	7.87	10.67	12.79	14.35
12	8.13	11.13	13.31	14.96
13	8.39	11.59	13.80	15.55
14	8.65	12.05	14.27	16.11

DESTINATION ENTERED—DNDC—Continued

Maximum weight (pounds)	DNDC zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
15	8.91	12.51	14.72	16.64
16	9.17	12.96	15.15	17.14
17	9.43	13.41	15.58	17.61
18	9.69	13.86	16.00	18.06
19	9.95	14.29	16.41	18.49
20	10.20	14.70	16.82	18.92
21	10.45	15.10	17.23	19.34
22	10.70	15.49	17.63	19.76
23	10.95	15.88	18.02	20.16
24	11.20	16.26	18.40	20.56
25	11.44	16.63	18.77	20.94
26	11.67	16.98	19.13	21.31
27	11.90	17.30	19.47	21.66
28	12.13	17.60	19.78	21.99
29	12.36	17.87	20.06	22.30
30	12.58	18.12	20.32	22.58
31	12.80	18.37	20.57	22.86
32	13.02	18.62	20.82	23.14
33	13.24	18.87	21.07	23.42
34	13.46	19.12	21.32	23.70
35	13.68	19.37	21.57	23.98

b. DNDC—Non-Machinable

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
1	7.78	8.57	9.47	10.46
2	8.03	9.03	10.05	11.11
3	8.29	9.49	10.64	11.75
4	8.55	9.95	11.23	12.39
5	8.81	10.41	11.82	13.03
6	9.07	10.87	12.41	13.67
7	9.33	11.33	13.00	14.31
8	9.59	11.79	13.59	14.95
9	9.85	12.25	14.17	15.59
10	10.11	12.71	14.74	16.22
11	10.37	13.17	15.29	16.85
12	10.63	13.63	15.81	17.46
13	10.89	14.09	16.30	18.05
14	11.15	14.55	16.77	18.61
15	11.41	15.01	17.22	19.14
16	11.67	15.46	17.65	19.64
17	11.93	15.91	18.08	20.11
18	12.19	16.36	18.50	20.56
19	12.45	16.79	18.91	20.99
20	12.70	17.20	19.32	21.42
21	12.95	17.60	19.73	21.84
22	13.20	17.99	20.13	22.26
23	13.45	18.38	20.52	22.66
24	13.70	18.76	20.90	23.06
25	13.94	19.13	21.27	23.44
26	14.17	19.48	21.63	23.81
27	14.40	19.80	21.97	24.16
28	14.63	20.10	22.28	24.49
29	14.86	20.37	22.56	24.80
30	15.08	20.62	22.82	25.08
31	15.30	20.87	23.07	25.36
32	15.52	21.12	23.32	25.64
33	15.74	21.37	23.57	25.92
34	15.96	21.62	23.82	26.20
35	16.18	21.87	24.07	26.48
36	16.40	22.12	24.32	26.76
37	16.62	22.37	24.57	27.04
38	16.84	22.62	24.82	27.32
39	17.06	22.87	25.07	27.60
40	17.28	23.12	25.32	27.88
41	17.50	23.37	25.57	28.16

Maximum weight (pounds)	DNDC Zones 1 & 2 ($)	DNDC Zone 3 ($)	DNDC Zone 4 ($)	DNDC Zones 5 ($)
42	17.72	23.62	25.82	28.44
43	17.94	23.86	26.07	28.72
44	18.16	24.10	26.32	29.00
45	18.38	24.34	26.57	29.28
46	18.60	24.58	26.82	29.56
47	18.82	24.82	27.07	29.84
48	19.04	25.06	27.31	30.12
49	19.26	25.30	27.55	30.40
50	19.48	25.54	27.79	30.68
51	19.70	25.78	28.03	30.96
52	19.92	26.02	28.27	31.24
53	20.14	26.25	28.51	31.52
54	20.36	26.48	28.75	31.80
55	20.58	26.71	28.99	32.08
56	20.80	26.94	29.23	32.36
57	21.02	27.17	29.47	32.64
58	21.24	27.40	29.71	32.92
59	21.46	27.63	29.95	33.20
60	21.68	27.86	30.19	33.48
61	21.90	28.09	30.43	33.76
62	22.12	28.32	30.67	34.04
63	22.34	28.55	30.91	34.31
64	22.56	28.78	31.15	34.58
65	22.78	29.01	31.39	34.85
66	23.00	29.24	31.63	35.11
67	23.22	29.47	31.87	35.36
68	23.44	29.70	32.11	35.61
69	23.66	29.93	32.35	35.86
70	23.88	30.16	32.59	36.11
Oversized	33.41	45.14	54.35	64.64

c. Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

e. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

a. Parcel Select Ground

NON-DESTINATION ENTERED—PARCEL SELECT GROUND

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	6.55	7.00	7.10	7.19	7.34	7.49	7.75
2	7.10	7.25	7.40	8.15	9.46	10.28	10.79
3	7.20	7.68	8.47	9.26	12.15	13.14	15.33
4	7.31	8.05	8.69	10.34	14.17	16.06	18.14
5	7.41	8.42	9.37	10.65	16.14	18.46	21.02
6	7.52	8.79	9.71	14.19	17.95	21.04	24.06
7	8.04	9.64	10.04	15.59	19.95	23.73	27.03
8	8.49	9.93	11.33	17.35	22.04	26.12	30.35
9	8.72	10.21	11.41	18.61	23.98	28.29	33.74
10	9.23	10.49	11.46	20.10	25.90	31.11	36.70
11	10.78	12.91	13.83	21.53	27.80	33.86	39.75
12	11.44	13.73	16.10	23.05	30.32	36.61	42.64
13	12.04	14.51	16.86	24.27	32.55	38.09	44.15
14	12.66	15.31	17.75	25.70	34.37	40.21	46.34
15	13.15	16.11	18.62	27.02	35.70	40.98	47.56
16	13.60	16.97	19.63	28.36	37.73	43.29	50.18
17	14.03	17.75	20.57	29.74	39.64	45.54	52.84
18	14.30	18.30	21.49	31.08	41.74	47.78	55.49
19	14.64	18.73	21.98	31.90	43.61	50.01	56.97
20	15.22	19.02	22.43	32.48	44.74	51.88	59.64
21	15.88	19.48	22.94	33.06	45.10	52.36	60.99
22	16.38	20.00	23.72	33.72	45.40	52.77	62.30
23	16.87	20.48	24.27	34.33	45.66	53.14	62.68

NON-DESTINATION ENTERED—PARCEL SELECT GROUND—Continued

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
24	17.56	21.34	25.66	35.69	46.62	54.52	64.20
25	18.24	22.11	27.27	36.88	47.30	55.88	65.32
26	19.33	23.71	30.13	38.85	48.45	57.25	67.36
27	20.49	24.76	31.97	42.35	49.11	58.59	69.89
28	21.12	25.10	32.87	43.45	49.77	59.96	72.52
29	21.76	25.35	33.75	44.03	50.61	61.33	74.47
30	22.41	25.73	34.56	44.64	52.03	62.68	76.07
31	23.03	25.97	35.09	45.20	52.78	64.06	77.63
32	23.30	26.52	35.68	45.73	53.48	65.44	79.21
33	23.66	27.25	36.57	46.33	54.51	66.78	80.67
34	23.88	27.97	37.49	47.33	55.80	68.17	82.19
35	24.15	28.64	38.03	48.33	57.29	69.53	83.60
36	24.45	29.46	38.53	49.38	58.74	70.48	85.01
37	24.71	30.01	39.09	50.26	60.27	71.37	86.40
38	24.94	30.74	39.58	51.26	61.96	72.20	87.78
39	25.19	31.45	40.04	52.32	63.42	74.10	89.15
40	25.45	32.12	40.55	53.41	64.44	75.75	90.36
41	25.73	32.66	40.98	53.89	65.53	77.37	91.67
42	25.91	32.90	41.35	54.79	66.68	78.43	92.91
43	26.21	33.14	41.72	55.70	68.27	79.40	94.11
44	26.39	33.38	42.08	56.60	69.36	80.34	95.17
45	26.56	33.62	42.45	57.51	70.13	81.22	96.37
46	26.79	33.86	42.81	58.41	70.91	82.09	97.53
47	27.00	34.10	43.18	59.32	71.65	83.03	98.62
48	27.22	34.34	43.54	60.22	72.57	83.82	99.67
49	27.43	34.58	43.91	61.13	73.56	84.70	100.68
50	27.54	34.82	44.27	62.03	74.59	85.77	101.73
51	27.94	35.06	44.64	63.09	75.61	87.00	102.68
52	28.37	35.30	45.00	63.53	76.35	88.31	103.89
53	28.89	35.54	45.37	64.05	77.00	89.76	105.22
54	29.31	35.78	45.73	64.61	77.54	91.05	106.70
55	29.77	36.02	46.10	65.02	78.18	92.49	108.13
56	30.18	36.26	46.46	65.50	78.71	93.79	109.23
57	30.67	36.50	46.83	65.90	79.30	95.22	110.20
58	31.12	36.74	47.19	66.31	79.76	96.48	111.11
59	31.57	36.98	47.56	66.72	80.23	97.14	111.93
60	31.97	37.22	47.92	67.08	80.63	97.71	112.73
61	32.48	37.46	48.29	67.42	81.07	98.27	114.24
62	32.88	37.70	48.65	67.72	81.45	98.71	116.06
63	33.47	37.94	49.02	68.07	81.92	99.19	117.92
64	33.76	38.18	49.38	68.37	82.28	99.64	119.73
65	34.26	38.42	49.75	68.59	82.52	100.13	121.60
66	34.71	38.66	50.11	68.90	82.94	100.43	123.37
67	35.23	38.90	50.96	69.15	83.21	100.84	125.01
68	35.64	39.14	51.61	69.33	84.24	101.36	126.33
69	36.13	39.38	52.26	69.54	85.25	101.84	127.67
70	36.50	39.62	53.08	69.76	86.28	102.21	129.04
Oversized	65.99	69.94	86.89	107.11	128.37	148.62	178.87

b. Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

d. Forwarding and Returns

Parcel Select pieces that are forwarded on request of the addressee or forwarded or returned on request of the mailer will be subject to the applicable Parcel Select Ground price, plus $3.00, when forwarded or returned. For customers using Address Correction Service with Shipper Paid Forwarding/Return, and also using an IMpb, the additional fee will be $2.50.

PARCEL SELECT LIGHTWEIGHT

Maximum weight (ounces)	Entry point/sortation level							
	DDU/5-digit ($)	DSCF/5-digit ($)	DNDC/5-digit ($)	DSCF/SCF ($)	DNDC/SCF ($)	DNDC/NDC ($)	None/NDC ($)	None/mixed NDC/single-piece ($)
1	1.42	1.68	1.84	1.86	2.27	2.62	2.90	3.22
2	1.42	1.68	1.84	1.86	2.27	2.62	2.90	3.22
3	1.42	1.68	1.84	1.86	2.27	2.62	2.90	3.22
4	1.42	1.68	1.84	1.86	2.27	2.62	2.90	3.22
5	1.47	1.75	1.95	1.97	2.39	2.71	3.07	3.40
6	1.52	1.82	2.06	2.08	2.51	2.80	3.18	3.52
7	1.57	1.89	2.17	2.19	2.63	2.89	3.29	3.64
8	1.62	1.96	2.28	2.30	2.75	2.98	3.40	3.76
9	1.67	2.03	2.39	2.41	2.87	3.09	3.51	3.88
10	1.72	2.10	2.50	2.52	2.99	3.20	3.62	4.00
11	1.77	2.17	2.61	2.63	3.11	3.31	3.73	4.12
12	1.82	2.24	2.72	2.74	3.23	3.42	3.84	4.24
13	1.87	2.31	2.83	2.85	3.35	3.55	3.95	4.36
14	1.92	2.38	2.94	2.96	3.47	3.68	4.06	4.48
15	1.97	2.45	3.05	3.07	3.59	3.81	4.17	4.60
15.999	2.02	2.52	3.16	3.18	3.71	3.94	4.28	4.72

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2120 Parcel Return Service

* * *

2120.6 Prices

a. Machinable RSCF

RSCF ENTERED

Maximum weight (pounds)	RSCF ($)
1	3.49
2	3.92
3	4.21
4	4.53
5	4.86
6	5.32
7	5.73
8	6.14
9	6.61
10	7.01
11	7.45
12	7.99
13	8.31
14	8.62
15	8.92
16	9.26
17	9.57
18	9.85
19	10.14
20	10.41
21	10.72
22	11.06
23	11.27
24	11.60
25	11.84
26	11.99
27	12.29
28	12.52
29	12.80
30	13.01
31	13.33
32	13.60
33	13.82
34	14.17
35	14.40

b. Nonmachinable RSCF

Maximum weight (pounds)	RSCF ($)
1	5.99
2	6.42
3	6.71
4	7.03
5	7.36
6	7.82
7	8.23
8	8.64
9	9.11
10	9.51
11	9.95
12	10.49
13	10.81
14	11.12
15	11.42
16	11.76
17	12.07
18	12.35
19	12.64
20	12.91
21	13.22
22	13.56
23	13.77
24	14.10
25	14.34
26	14.49
27	14.79
28	15.02
29	15.30
30	15.51
31	15.83
32	16.10
33	16.32
34	16.67
35	16.90
36	17.20
37	17.57
38	17.74
39	18.05
40	18.26
41	18.53
42	18.85
43	19.06
44	19.33
45	19.48
46	19.73
47	20.04
48	20.13
49	20.37
50	20.61
51	20.75
52	20.94
53	21.04
54	21.28
55	21.54
56	21.66
57	21.89
58	22.03
59	22.28
60	22.56
61	22.69
62	22.92
63	23.04
64	23.25
65	23.51
66	23.73
67	23.85
68	24.06
69	24.24
70	24.38
Oversized	31.52

c. Balloon Price

RSCF entered pieces exceeding 84 inches in length and girth combined, but not more than 108 inches, and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

d. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

a. Machinable RDU

RDU ENTERED

Maximum weight (pounds)	RDU ($)
1	2.75
2	2.83
3	2.90
4	2.98
5	3.05
6	3.12
7	3.22
8	3.27
9	3.37
10	3.42
11	3.51
12	3.60
13	3.66
14	3.75
15	3.82
16	3.92
17	3.99
18	4.07
19	4.16
20	4.21
21	4.31
22	4.39
23	4.47
24	4.54
25	4.62
26	4.70
27	4.78
28	4.86
29	4.93
30	5.01
31	5.11
32	5.18
33	5.26
34	5.33
35	5.41

b. Nonmachinable RDU

Maximum weight (pounds)	RDU ($)
1	2.75
2	2.83
3	2.90
4	2.98
5	3.05
6	3.12
7	3.22
8	3.27
9	3.37
10	3.42
11	3.51
12	3.60
13	3.66
14	3.75
15	3.82
16	3.92
17	3.99
18	4.07
19	4.16
20	4.21

Maximum weight (pounds)	RDU ($)
21	4.31
22	4.39
23	4.47
24	4.54
25	4.62
26	4.70
27	4.78
28	4.86
29	4.93
30	5.01
31	5.11
32	5.18
33	5.26
34	5.33
35	5.41
36	5.51
37	5.59
38	5.66
39	5.73
40	5.81
41	5.90
42	5.98
43	6.06
44	6.16
45	6.21
46	6.30
47	6.38
48	6.45
49	6.56
50	6.63
51	6.71
52	6.78
53	6.85
54	6.96
55	7.03
56	7.11
57	7.20
58	7.26
59	7.36
60	7.43
61	7.51
62	7.60
63	7.66
64	7.75
65	7.85
66	7.91
67	8.00
68	8.06
69	8.15
70	8.26
Oversized	10.38

c. Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2125 First-Class Package Service

* * *

2125.6 Prices

COMMERCIAL

Maximum weight (ounces)	Single-piece ($)
1	2.66
2	2.66
3	2.66
4	2.66
5	2.79
6	2.92

COMMERCIAL—Continued

Maximum weight (ounces)	Single-piece ($)
7	3.05
8	3.18
9	3.34
10	3.50
11	3.66
12	3.82
13	4.10
14	4.38
15	4.66
15.999	4.94

RETAIL [1]

Maximum weight (ounces)	Single-piece ($)
1	3.50
2	3.50
3	3.50
4	3.50
5	3.75
6	3.75
7	3.75
8	3.75
9	4.10
10	4.45
11	4.80
12	5.15
13	5.50

Notes

1. A handling charge of $0.01 per piece applies to foreign-origin, inbound direct entry mail tendered by foreign postal operators, subject to the terms of an authorization arrangement.

Irregular Parcel Surcharge

Add $0.20 for each irregularly shaped parcel (such as rolls, tubes, and triangles).

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

2135 USPS Retail Ground

* * *

2135.6 Prices

USPS RETAIL GROUND [1]

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
1	6.70	7.15	7.30	7.42	7.59	7.77	8.27
2	7.25	7.70	8.75	9.56	10.33	11.52	12.72
3	7.90	8.80	10.15	11.40	12.68	14.24	16.69
4	8.50	9.90	11.15	12.05	14.56	17.08	19.60
5	9.85	10.95	11.95	13.08	16.29	19.50	22.71
6	10.40	11.30	12.50	14.43	17.95	21.47	24.98
7	11.10	12.15	14.30	15.99	19.95	23.91	27.88
8	11.45	13.50	15.90	18.58	22.80	27.02	31.23
9	11.90	14.55	17.60	21.19	25.76	30.32	34.89
10	12.65	15.60	18.95	22.65	27.43	32.21	36.99
11	13.50	16.70	20.35	24.40	29.79	35.18	40.57
12	14.70	17.90	21.85	26.18	31.98	37.78	43.58
13	15.55	19.00	23.10	27.69	33.23	38.76	44.30
14	16.50	20.20	24.55	29.39	35.11	40.82	46.53
15	17.20	21.30	25.95	31.14	36.69	42.24	47.79
16	17.70	22.45	27.35	32.86	38.74	44.62	50.50
17	18.50	23.65	28.80	34.59	40.77	46.94	53.12
18	18.85	24.50	30.00	36.27	42.78	49.30	55.81
19	19.35	25.05	30.70	37.25	43.82	50.40	56.97

USPS RETAIL GROUND [1]—Continued

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)	Zone 6 ($)	Zone 7 ($)	Zone 8 ($)
20	20.20	25.35	31.15	37.91	45.15	52.39	59.64
21	20.85	25.70	31.60	38.44	45.95	53.47	60.99
22	21.35	26.30	32.35	39.34	47.05	54.75	62.46
23	21.85	26.80	32.90	40.03	47.89	55.75	63.60
24	22.35	27.35	33.65	40.88	48.98	57.07	65.16
25	22.55	27.85	35.00	42.01	50.09	58.16	66.24
26	23.50	28.35	36.35	42.88	51.37	59.86	68.35
27	24.20	28.75	37.45	45.11	53.70	62.28	70.87
28	24.95	29.15	38.55	46.25	55.36	64.47	73.58
29	25.70	29.45	39.50	46.89	56.43	65.97	75.51
30	26.45	29.85	40.45	47.56	57.43	67.30	77.16
31	27.25	30.15	41.10	48.20	58.39	68.58	78.76
32	27.55	30.80	41.80	48.78	59.29	69.80	80.30
33	28.00	31.65	42.85	49.39	60.20	71.00	81.81
34	28.25	32.50	43.90	50.40	61.41	72.41	83.41
35	28.55	33.30	44.50	51.48	62.58	73.67	84.76
36	28.85	34.20	45.10	52.68	63.85	75.03	86.20
37	29.15	34.85	45.75	53.60	64.95	76.31	87.66
38	29.45	35.70	46.35	54.64	66.12	77.59	89.07
39	29.75	36.50	46.90	55.75	67.29	78.83	90.37
40	30.10	37.30	47.55	56.97	68.53	80.08	91.63
41	30.40	38.00	48.05	57.48	69.32	81.16	93.00
42	30.65	38.70	48.60	58.70	70.55	82.40	94.26
43	31.00	39.30	49.05	60.01	71.81	83.61	95.41
44	31.20	39.95	49.65	61.23	73.01	84.79	96.57
45	31.40	40.40	50.00	62.70	74.39	86.08	97.78
46	31.65	40.70	50.55	63.81	75.52	87.23	98.94
47	31.95	41.05	51.00	65.27	76.85	88.43	100.01
48	32.20	41.40	51.50	66.58	78.10	89.61	101.12
49	32.40	41.70	51.90	67.79	79.24	90.69	102.14
50	32.55	41.95	52.25	69.12	80.48	91.85	103.21
51	32.70	42.35	52.75	70.25	81.54	92.83	104.12
52	33.10	42.60	53.10	70.84	82.34	93.84	105.34
53	33.65	42.90	53.45	71.41	83.18	94.96	106.74
54	34.10	43.10	53.80	71.96	84.06	96.15	108.24
55	34.70	43.40	54.10	72.48	84.87	97.25	109.64
56	35.15	43.65	54.40	72.94	85.52	98.11	110.70
57	35.65	43.80	54.75	73.37	86.09	98.82	111.54
58	36.25	44.00	55.05	73.90	86.72	99.54	112.35
59	36.80	44.20	55.35	74.31	87.28	100.25	113.22
60	37.30	44.40	55.90	74.68	87.77	100.86	113.95
61	37.85	44.60	56.90	75.07	88.57	102.07	115.56
62	38.25	44.70	57.60	75.48	89.44	103.41	117.38
63	39.00	44.95	58.55	75.85	90.31	104.76	119.22
64	39.35	45.05	59.40	76.19	91.15	106.11	121.07
65	39.90	45.15	60.20	76.41	91.92	107.44	122.95
66	40.40	45.35	61.15	76.78	92.78	108.77	124.76
67	41.05	45.45	62.20	77.07	93.51	109.95	126.39
68	41.55	45.55	63.00	77.26	94.09	110.93	127.76
69	42.10	45.60	63.75	77.45	94.65	111.85	129.05
70	42.55	45.70	64.80	77.68	95.29	112.90	130.51
Oversized	69.84	75.32	96.31	113.40	133.09	152.78	183.75

Notes

1. Except for oversized pieces, the Zone 1–4 prices are applicable only to parcels containing hazardous or other material not permitted to travel by air transportation.

Limited Overland Routes

Pieces delivered to or from designated intra-Alaska ZIP Codes not connected by overland routes are eligible for the following prices.

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
1	6.60	7.05	7.21	7.29
2	7.16	7.52	8.13	8.55
3	7.41	8.37	9.01	10.52
4	8.15	8.84	9.54	10.81
5	8.30	9.10	10.05	11.32

Maximum weight (pounds)	Zones 1 & 2 ($)	Zone 3 ($)	Zone 4 ($)	Zone 5 ($)
6	8.45	9.35	10.34	11.91
7	8.77	9.78	10.90	12.64
8	9.07	10.22	11.48	13.46
9	9.39	10.83	12.08	14.27
10	9.70	11.08	12.65	15.00
11	10.04	11.52	13.21	15.76
12	10.34	11.97	13.78	16.51
13	10.66	12.40	14.36	17.23
14	10.98	12.85	14.93	17.99
15	11.29	13.29	15.50	18.73
16	11.61	13.72	16.07	19.48
17	11.94	14.17	16.66	20.25
18	12.25	14.60	17.22	20.98
19	12.55	15.02	17.73	21.68
20	12.87	15.44	18.27	22.36
21	13.18	15.85	18.80	23.02
22	13.51	16.27	19.34	23.71
23	13.82	16.70	19.86	24.40
24	14.14	17.11	20.40	25.08
25	14.45	17.52	20.95	25.78
26	14.75	17.95	21.57	26.45
27	15.06	18.36	22.10	27.22
28	15.37	18.78	22.67	27.90
29	15.76	19.18	23.20	28.55
30	16.15	19.60	23.74	29.24
31	16.71	19.99	24.27	29.90
32	16.95	20.41	24.79	30.54
33	17.34	20.84	25.33	31.23
34	17.77	21.27	25.88	31.90
35	18.28	21.68	26.42	32.60
36	18.54	22.11	26.93	33.29
37	18.95	22.53	27.45	33.98
38	19.36	22.95	27.98	34.67
39	19.79	23.38	28.51	35.36
40	20.22	23.78	29.16	36.07
41	20.63	24.21	29.66	36.70
42	20.96	24.64	30.21	37.42
43	21.29	25.05	30.71	38.13
44	21.61	25.47	31.23	38.81
45	21.93	25.86	31.74	39.53
46	22.27	26.28	32.28	40.23
47	22.59	26.69	32.80	40.95
48	22.91	27.10	33.31	41.66
49	23.24	27.51	33.83	42.36
50	23.56	27.90	34.34	43.08
51	23.89	28.32	34.87	43.76
52	24.22	28.73	35.37	44.43
53	24.55	29.14	35.89	45.08
54	24.86	29.53	36.40	45.74
55	25.20	29.93	36.92	46.38
56	25.52	30.35	37.41	47.04
57	25.86	30.75	37.94	47.69
58	26.19	31.16	38.44	48.33
59	26.52	31.56	38.96	48.98
60	26.84	31.95	39.48	49.62
61	27.17	32.36	40.03	50.27
62	27.49	32.76	40.55	50.92
63	27.82	33.17	41.10	51.56
64	28.14	33.57	41.63	52.19
65	28.48	33.97	42.17	52.83
66	28.80	34.37	42.71	53.49
67	29.13	34.77	43.26	54.10
68	29.47	35.17	43.79	54.74
69	29.79	35.58	44.33	55.38
70	30.13	36.60	45.21	56.02
Oversized	43.95	49.97	56.17	65.40

Balloon Price

Pieces exceeding 84 inches in length and girth combined (but not more than 108 inches) and weighing less than 20 pounds are subject to a price equal to that for a 20-pound parcel for the zone to which the parcel is addressed.

Oversized Pieces

Regardless of weight, any piece that measures more than 108 inches (but not more than 130 inches) in length plus girth must pay the oversized price.

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

IMpb Noncompliance Fee

Add $0.20 for each IMpb-noncompliant parcel paying commercial prices.

2300 International Products

* * *

2305 Outbound International Expedited Services

* * *

2305.6 Prices

GLOBAL EXPRESS GUARANTEED RETAIL PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	($)	8 ($)
0.5	64.50	71.95	83.00	136.25	91.75	96.75	72.25	112.25
1	77.15	78.30	94.15	155.20	106.60	110.10	85.50	126.10
2	82.45	85.15	101.20	171.75	113.75	118.65	95.55	140.55
3	87.75	92.00	108.25	188.30	120.90	127.20	105.60	155.00
4	93.05	98.85	115.30	204.85	128.05	135.75	115.65	169.45
5	98.00	105.70	122.35	221.40	135.20	144.30	125.70	183.90
6	102.95	112.15	128.70	237.75	142.45	152.85	132.35	198.05
7	107.90	118.60	135.05	254.10	149.70	161.40	139.00	212.20
8	112.85	125.05	141.40	270.45	156.95	169.95	145.65	226.35
9	117.80	131.50	147.75	286.80	164.20	178.50	152.30	240.50
10	122.75	137.95	154.10	303.15	171.45	187.05	158.95	254.65
11	127.60	141.90	159.35	319.50	176.50	194.30	164.30	265.50
12	132.45	145.85	164.60	335.85	181.55	201.55	169.65	276.35
13	137.30	149.80	169.85	352.20	186.60	208.80	175.00	287.20
14	142.15	153.75	175.10	368.55	191.65	216.05	180.35	298.05
15	147.00	157.70	180.35	384.90	196.70	223.30	185.70	308.90
16	151.85	161.65	185.60	401.25	201.75	230.55	191.05	319.75
17	156.70	165.60	190.85	417.60	206.80	237.80	196.40	330.60
18	161.55	169.55	196.10	433.95	211.85	245.05	201.75	341.45
19	166.40	173.50	201.35	450.30	216.90	252.30	207.10	352.30
20	171.25	177.45	206.60	466.65	221.95	259.55	212.45	363.15
21	176.10	180.20	211.85	479.70	227.00	266.80	217.80	374.00
22	180.95	182.95	217.10	492.75	232.05	274.05	223.15	384.85
23	185.80	185.70	222.35	505.80	237.10	281.30	228.50	395.70
24	190.65	188.45	227.60	518.85	242.15	288.55	233.85	406.55
25	195.50	191.20	232.85	531.90	247.20	295.80	239.20	417.40
26	200.35	193.95	238.10	544.95	252.25	303.05	244.55	428.25
27	205.20	196.70	243.35	558.00	257.30	310.30	249.90	439.10
28	210.05	199.45	248.60	571.05	262.35	317.55	255.25	449.95
29	214.90	202.20	253.85	584.10	267.40	324.80	260.60	460.80
30	219.75	204.95	259.10	597.15	272.45	332.05	265.95	471.65
31	223.90	207.70	264.35	610.20	277.50	339.30	271.30	482.50
32	228.05	210.45	269.60	623.25	282.55	346.55	276.65	493.35
33	232.20	213.20	274.85	636.30	287.60	353.80	282.00	504.20
34	236.35	215.95	280.10	649.35	292.65	361.05	287.35	515.05
35	240.50	218.70	285.35	662.40	297.70	368.30	292.70	525.90
36	244.65	221.45	290.60	675.45	302.75	375.55	298.05	536.75
37	248.80	224.20	295.85	688.50	307.80	382.80	303.40	547.60
38	252.95	226.95	301.10	701.55	312.85	390.05	308.75	558.45
39	257.10	229.70	306.35	714.60	317.90	397.30	314.10	569.30
40	261.25	232.45	311.60	727.65	322.95	404.55	319.45	580.15
41	264.80	235.20	316.85	740.70	328.00	411.80	324.80	591.00
42	268.35	237.95	322.10	753.75	333.05	419.05	330.15	601.85
43	271.90	240.70	327.35	766.80	338.10	426.30	335.50	612.70
44	275.45	243.45	332.60	779.85	343.15	433.55	340.85	623.55
45	279.00	246.20	337.85	792.90	348.20	440.80	346.20	634.40
46	282.55	248.95	343.10	805.95	353.25	448.05	351.55	645.25
47	286.10	251.70	348.35	819.00	358.30	455.30	356.90	656.10
48	289.65	254.45	353.60	832.05	363.35	462.55	362.25	666.95
49	293.20	257.20	358.85	845.10	368.40	469.80	367.60	677.80
50	296.75	259.95	364.10	858.15	373.45	477.05	372.95	688.65
51	300.30	262.70	369.35	871.20	378.50	484.30	378.30	699.50
52	303.85	265.45	374.60	884.25	383.55	491.55	383.65	710.35
53	307.40	268.20	379.85	897.30	388.60	498.80	389.00	721.20
54	310.95	270.95	385.10	910.35	393.65	506.05	394.35	732.05
55	314.50	273.70	390.35	923.40	398.70	513.30	399.70	742.90
56	318.05	276.45	395.60	936.45	403.75	520.55	405.05	753.75
57	321.60	279.20	400.85	949.50	408.80	527.80	410.40	764.60
58	325.15	281.95	406.10	962.55	413.85	535.05	415.75	775.45

GLOBAL EXPRESS GUARANTEED RETAIL PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	($)	8 ($)
59	328.70	284.70	411.35	975.60	418.90	542.30	421.10	786.30
60	332.25	287.45	416.60	988.65	423.95	549.55	426.45	797.15
61	335.80	290.20	421.85	1,001.70	429.00	556.80	431.80	808.00
62	339.35	292.95	427.10	1,014.75	434.05	564.05	437.15	818.85
63	342.90	295.70	432.35	1,027.80	439.10	571.30	442.50	829.70
64	346.45	298.45	437.60	1,040.85	444.15	578.55	447.85	840.55
65	350.00	301.20	442.85	1,053.90	449.20	585.80	453.20	851.40
66	353.55	303.95	448.10	1,066.95	454.25	593.05	458.55	862.25
67	357.10	306.70	453.35	1,080.00	459.30	600.30	463.90	873.10
68	360.65	309.45	458.60	1,093.05	464.35	607.55	469.25	883.95
69	364.20	312.20	463.85	1,106.10	469.40	614.80	474.60	894.80
70	367.75	314.95	469.10	1,119.15	474.45	622.05	479.95	905.65

GLOBAL EXPRESS GUARANTEED COMMERCIAL BASE PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	61.28	68.35	78.85	129.44	87.16	91.91	68.64	106.64
1	73.29	74.39	89.44	147.44	101.27	104.60	81.23	119.80
2	78.33	80.89	96.14	163.16	108.06	112.72	90.77	133.52
3	83.36	87.40	102.84	178.89	114.86	120.84	100.32	147.25
4	88.40	93.91	109.54	194.61	121.65	128.96	109.87	160.98
5	93.10	100.42	116.23	210.33	128.44	137.09	119.42	174.71
6	97.80	106.54	122.27	225.86	135.33	145.21	125.73	188.15
7	102.51	112.67	128.30	241.40	142.22	153.33	132.05	201.59
8	107.21	118.80	134.33	256.93	149.10	161.45	138.37	215.03
9	111.91	124.93	140.36	272.46	155.99	169.58	144.69	228.48
10	116.61	131.05	146.40	287.99	162.88	177.70	151.00	241.92
11	121.22	134.81	151.38	303.53	167.68	184.59	156.09	252.23
12	125.83	138.56	156.37	319.06	172.47	191.47	161.17	262.53
13	130.44	142.31	161.36	334.59	177.27	198.36	166.25	272.84
14	135.04	146.06	166.35	350.12	182.07	205.25	171.33	283.15
15	139.65	149.82	171.33	365.66	186.87	212.14	176.42	293.46
16	144.26	153.57	176.32	381.19	191.66	219.02	181.50	303.76
17	148.87	157.32	181.31	396.72	196.46	225.91	186.58	314.07
18	153.47	161.07	186.30	412.25	201.26	232.80	191.66	324.38
19	158.08	164.83	191.28	427.79	206.06	239.69	196.75	334.69
20	162.69	168.58	196.27	443.32	210.85	246.57	201.83	344.99
21	167.30	171.19	201.26	455.72	215.65	253.46	206.91	355.30
22	171.90	173.80	206.25	468.11	220.45	260.35	211.99	365.61
23	176.51	176.42	211.23	480.51	225.25	267.24	217.08	375.92
24	181.12	179.03	216.22	492.91	230.04	274.12	222.16	386.22
25	185.73	181.64	221.21	505.31	234.84	281.01	227.24	396.53
26	190.33	184.25	226.20	517.70	239.64	287.90	232.32	406.84
27	194.94	186.87	231.18	530.10	244.44	294.79	237.41	417.15
28	199.55	189.48	236.17	542.50	249.23	301.67	242.49	427.45
29	204.16	192.09	241.16	554.90	254.03	308.56	247.57	437.76
30	208.76	194.70	246.15	567.29	258.83	315.45	252.65	448.07
31	212.71	197.32	251.13	579.69	263.63	322.34	257.74	458.38
32	216.65	199.93	256.12	592.09	268.42	329.22	262.82	468.68
33	220.59	202.54	261.11	604.49	273.22	336.11	267.90	478.99
34	224.53	205.15	266.10	616.88	278.02	343.00	272.98	489.30
35	228.48	207.77	271.08	629.28	282.82	349.89	278.07	499.61
36	232.42	210.38	276.07	641.68	287.61	356.77	283.15	509.91
37	236.36	212.99	281.06	654.08	292.41	363.66	288.23	520.22
38	240.30	215.60	286.05	666.47	297.21	370.55	293.31	530.53
39	244.25	218.22	291.03	678.87	302.01	377.44	298.40	540.84
40	248.19	220.83	296.02	691.27	306.80	384.32	303.48	551.14
41	251.56	223.44	301.01	703.67	311.60	391.21	308.56	561.45
42	254.93	226.05	306.00	716.06	316.40	398.10	313.64	571.76
43	258.31	228.67	310.98	728.46	321.20	404.99	318.73	582.07
44	261.68	231.28	315.97	740.86	325.99	411.87	323.81	592.37
45	265.05	233.89	320.96	753.26	330.79	418.76	328.89	602.68
46	268.42	236.50	325.95	765.65	335.59	425.65	333.97	612.99
47	271.80	239.12	330.93	778.05	340.39	432.54	339.06	623.30
48	275.17	241.73	335.92	790.45	345.18	439.42	344.14	633.60

GLOBAL EXPRESS GUARANTEED COMMERCIAL BASE PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
49	278.54	244.34	340.91	802.85	349.98	446.31	349.22	643.91
50	281.91	246.95	345.90	815.24	354.78	453.20	354.30	654.22
51	285.29	249.57	350.88	827.64	359.58	460.09	359.39	664.53
52	288.66	252.18	355.87	840.04	364.37	466.97	364.47	674.83
53	292.03	254.79	360.86	852.44	369.17	473.86	369.55	685.14
54	295.40	257.40	365.85	864.83	373.97	480.75	374.63	695.45
55	298.78	260.02	370.83	877.23	378.77	487.64	379.72	705.76
56	302.15	262.63	375.82	889.63	383.56	494.52	384.80	716.06
57	305.52	265.24	380.81	902.03	388.36	501.41	389.88	726.37
58	308.89	267.85	385.80	914.42	393.16	508.30	394.96	736.68
59	312.27	270.47	390.78	926.82	397.96	515.19	400.05	746.99
60	315.64	273.08	395.77	939.22	402.75	522.07	405.13	757.29
61	319.01	275.69	400.76	951.62	407.55	528.96	410.21	767.60
62	322.38	278.30	405.75	964.01	412.35	535.85	415.29	777.91
63	325.76	280.92	410.73	976.41	417.15	542.74	420.38	788.22
64	329.13	283.53	415.72	988.81	421.94	549.62	425.46	798.52
65	332.50	286.14	420.71	1,001.21	426.74	556.51	430.54	808.83
66	335.87	288.75	425.70	1,013.60	431.54	563.40	435.62	819.14
67	339.25	291.37	430.68	1,026.00	436.34	570.29	440.71	829.45
68	342.62	293.98	435.67	1,038.40	441.13	577.17	445.79	839.75
69	345.99	296.59	440.66	1,050.80	445.93	584.06	450.87	850.06
70	349.36	299.20	445.65	1,063.19	450.73	590.95	455.95	860.37

GLOBAL EXPRESS GUARANTEED COMMERCIAL PLUS PRICES

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
0.5	61.28	68.35	78.85	129.44	87.16	91.91	68.64	106.64
1	73.29	74.39	89.44	147.44	101.27	104.60	81.23	119.80
2	78.33	80.89	96.14	163.16	108.06	112.72	90.77	133.52
3	83.36	87.40	102.84	178.89	114.86	120.84	100.32	147.25
4	88.40	93.91	109.54	194.61	121.65	128.96	109.87	160.98
5	93.10	100.42	116.23	210.33	128.44	137.09	119.42	174.71
6	97.80	106.54	122.27	225.86	135.33	145.21	125.73	188.15
7	102.51	112.67	128.30	241.40	142.22	153.33	132.05	201.59
8	107.21	118.80	134.33	256.93	149.10	161.45	138.37	215.03
9	111.91	124.93	140.36	272.46	155.99	169.58	144.69	228.48
10	116.61	131.05	146.40	287.99	162.88	177.70	151.00	241.92
11	121.22	134.81	151.38	303.53	167.68	184.59	156.09	252.23
12	125.83	138.56	156.37	319.06	172.47	191.47	161.17	262.53
13	130.44	142.31	161.36	334.59	177.27	198.36	166.25	272.84
14	135.04	146.06	166.35	350.12	182.07	205.25	171.33	283.15
15	139.65	149.82	171.33	365.66	186.87	212.14	176.42	293.46
16	144.26	153.57	176.32	381.19	191.66	219.02	181.50	303.76
17	148.87	157.32	181.31	396.72	196.46	225.91	186.58	314.07
18	153.47	161.07	186.30	412.25	201.26	232.80	191.66	324.38
19	158.08	164.83	191.28	427.79	206.06	239.69	196.75	334.69
20	162.69	168.58	196.27	443.32	210.85	246.57	201.83	344.99
21	167.30	171.19	201.26	455.72	215.65	253.46	206.91	355.30
22	171.90	173.80	206.25	468.11	220.45	260.35	211.99	365.61
23	176.51	176.42	211.23	480.51	225.25	267.24	217.08	375.92
24	181.12	179.03	216.22	492.91	230.04	274.12	222.16	386.22
25	185.73	181.64	221.21	505.31	234.84	281.01	227.24	396.53
26	190.33	184.25	226.20	517.70	239.64	287.90	232.32	406.84
27	194.94	186.87	231.18	530.10	244.44	294.79	237.41	417.15
28	199.55	189.48	236.17	542.50	249.23	301.67	242.49	427.45
29	204.16	192.09	241.16	554.90	254.03	308.56	247.57	437.76
30	208.76	194.70	246.15	567.29	258.83	315.45	252.65	448.07
31	212.71	197.32	251.13	579.69	263.63	322.34	257.74	458.38
32	216.65	199.93	256.12	592.09	268.42	329.22	262.82	468.68
33	220.59	202.54	261.11	604.49	273.22	336.11	267.90	478.99
34	224.53	205.15	266.10	616.88	278.02	343.00	272.98	489.30
35	228.48	207.77	271.08	629.28	282.82	349.89	278.07	499.61
36	232.42	210.38	276.07	641.68	287.61	356.77	283.15	509.91
37	236.36	212.99	281.06	654.08	292.41	363.66	288.23	520.22
38	240.30	215.60	286.05	666.47	297.21	370.55	293.31	530.53

GLOBAL EXPRESS GUARANTEED COMMERCIAL PLUS PRICES—Continued

Maximum weight (pounds)	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
39	244.25	218.22	291.03	678.87	302.01	377.44	298.40	540.84
40	248.19	220.83	296.02	691.27	306.80	384.32	303.48	551.14
41	251.56	223.44	301.01	703.67	311.60	391.21	308.56	561.45
42	254.93	226.05	306.00	716.06	316.40	398.10	313.64	571.76
43	258.31	228.67	310.98	728.46	321.20	404.99	318.73	582.07
44	261.68	231.28	315.97	740.86	325.99	411.87	323.81	592.37
45	265.05	233.89	320.96	753.26	330.79	418.76	328.89	602.68
46	268.42	236.50	325.95	765.65	335.59	425.65	333.97	612.99
47	271.80	239.12	330.93	778.05	340.39	432.54	339.06	623.30
48	275.17	241.73	335.92	790.45	345.18	439.42	344.14	633.60
49	278.54	244.34	340.91	802.85	349.98	446.31	349.22	643.91
50	281.91	246.95	345.90	815.24	354.78	453.20	354.30	654.22
51	285.29	249.57	350.88	827.64	359.58	460.09	359.39	664.53
52	288.66	252.18	355.87	840.04	364.37	466.97	364.47	674.83
53	292.03	254.79	360.86	852.44	369.17	473.86	369.55	685.14
54	295.40	257.40	365.85	864.83	373.97	480.75	374.63	695.45
55	298.78	260.02	370.83	877.23	378.77	487.64	379.72	705.76
56	302.15	262.63	375.82	889.63	383.56	494.52	384.80	716.06
57	305.52	265.24	380.81	902.03	388.36	501.41	389.88	726.37
58	308.89	267.85	385.80	914.42	393.16	508.30	394.96	736.68
59	312.27	270.47	390.78	926.82	397.96	515.19	400.05	746.99
60	315.64	273.08	395.77	939.22	402.75	522.07	405.13	757.29
61	319.01	275.69	400.76	951.62	407.55	528.96	410.21	767.60
62	322.38	278.30	405.75	964.01	412.35	535.85	415.29	777.91
63	325.76	280.92	410.73	976.41	417.15	542.74	420.38	788.22
64	329.13	283.53	415.72	988.81	421.94	549.62	425.46	798.52
65	332.50	286.14	420.71	1,001.21	426.74	556.51	430.54	808.83
66	335.87	288.75	425.70	1,013.60	431.54	563.40	435.62	819.14
67	339.25	291.37	430.68	1,026.00	436.34	570.29	440.71	829.45
68	342.62	293.98	435.67	1,038.40	441.13	577.17	445.79	839.75
69	345.99	296.59	440.66	1,050.80	445.93	584.06	450.87	850.06
70	349.36	299.20	445.65	1,063.19	450.73	590.95	455.95	860.37

PRIORITY MAIL EXPRESS INTERNATIONAL FLAT RATE RETAIL PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	43.00	59.75	63.95	61.95	63.95	66.00	62.95	65.00

PRIORITY MAIL EXPRESS INTERNATIONAL FLAT RATE COMMERCIAL BASE PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	40.85	56.75	60.75	58.85	60.75	62.70	59.80	61.75

PRIORITY MAIL EXPRESS INTERNATIONAL FLAT RATE COMMERCIAL PLUS PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelope	40.85	56.75	60.75	58.85	60.75	62.70	59.80	61.75

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	42.50	54.00	56.95	65.95	60.50	60.50	61.25	58.00	56.00
1	46.45	56.25	61.20	67.30	62.35	64.35	67.00	63.40	60.75
2	51.40	60.30	66.75	72.65	66.40	69.10	73.55	68.60	65.50
3	56.35	64.35	72.30	78.00	70.45	73.85	80.10	73.80	70.25
4	61.30	68.40	77.85	83.35	74.50	78.60	86.65	79.00	75.00
5	66.25	72.45	83.40	88.70	78.55	83.35	93.20	84.20	79.75
6	71.20	75.30	87.45	94.05	82.60	88.20	99.75	89.30	84.20
7	76.15	78.15	91.50	99.40	86.65	93.05	106.30	94.40	88.65
8	81.10	81.00	95.55	104.75	90.70	97.90	112.85	99.50	93.10
9	86.05	83.85	99.60	110.10	94.75	102.75	119.40	104.60	97.55
10	91.00	86.70	103.65	115.45	98.80	107.60	125.95	109.70	102.00
11	95.75	89.55	107.25	120.75	102.85	112.45	132.50	114.80	106.55
12	100.50	92.40	110.85	126.05	106.90	117.30	139.05	119.90	111.10
13	105.25	95.25	114.45	131.35	110.95	122.15	145.60	125.00	115.65
14	110.00	98.10	118.05	136.65	115.00	127.00	152.15	130.10	120.20
15	114.75	100.95	121.65	141.95	119.05	131.85	158.70	135.20	124.75
16	119.50	103.70	125.25	147.25	123.10	136.70	165.25	140.30	129.30
17	124.25	106.45	128.85	152.55	127.15	141.55	171.80	145.40	133.85
18	129.00	109.20	132.45	157.85	131.20	146.40	178.35	150.50	138.40
19	133.75	111.95	136.05	163.15	135.25	151.25	184.90	155.60	142.95
20	138.50	114.70	139.65	168.45	139.30	156.10	191.45	160.70	147.50
21	143.25	117.45	143.25	173.75	143.35	160.95	198.00	165.80	152.05
22	148.00	120.20	146.85	179.05	147.40	165.80	204.55	170.90	156.60
23	152.75	122.95	150.45	184.35	151.45	170.65	211.10	176.00	161.15
24	157.50	125.70	154.05	189.65	155.50	175.50	217.65	181.10	165.70
25	162.25	128.45	157.65	194.95	159.55	180.35	224.20	186.20	170.25

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	65.50	63.00	61.95	63.00	62.25	63.50	63.00	63.00
1	68.35	64.85	69.00	64.95	63.80	67.05	64.55	64.85
2	74.60	69.20	74.35	68.20	69.95	71.40	67.60	67.70
3	80.85	73.55	79.70	71.45	76.10	75.75	70.65	70.55
4	87.10	77.90	85.05	74.70	82.25	80.10	73.70	73.40
5	93.35	82.25	90.40	77.95	88.40	84.45	76.75	
6	99.80	85.60	95.45	81.30	94.65	88.90	79.70	79.10
7	106.25	88.95	100.50	84.65	100.90	93.35	82.65	81.95
8	112.70	92.30	105.55	88.00	107.15	97.80	85.60	84.80
9	119.15	95.65	110.60	91.35	113.40	102.25	88.55	87.65
10	125.60	99.00	115.65	94.70	119.65	106.70	91.50	90.50
11	132.15	102.35	119.90	98.05	126.30	111.15	95.05	93.95
12	138.70	105.70	124.15	101.40	132.95	115.60	98.60	97.40
13	145.25	109.05	128.40	104.75	139.60	120.05	102.15	100.85
14	151.80	112.40	132.65	108.10	146.25	124.50	105.70	104.30
15	158.35	115.75	136.90	111.45	152.90	128.95	109.25	107.75
16	164.90	119.10	141.15	114.80	159.55	133.40	112.80	111.20
17	171.45	122.45	145.40	118.15	166.20	137.85	116.35	114.65
18	178.00	125.80	149.65	121.50	172.85	142.30	119.90	118.10
19	184.55	129.15	153.90	124.85	179.50	146.75	123.45	
20	191.10	132.50	158.15	128.20	186.15	151.20	127.00	125.00
21	197.65	135.85	162.40	131.55	192.10	155.65	130.55	128.45
22	204.20	139.20	166.65	134.90	198.05	160.10	134.10	131.90
23	210.75	142.55	170.90	138.25	204.00	164.55	137.65	135.35
24	217.30	145.90	175.15	141.60	209.95	169.00	141.20	138.80
25	223.85	149.25	179.40	144.95	215.90	173.45	144.75	142.25

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	167.00	131.20	161.25	200.25	163.60	185.20	230.75	191.30	174.80
27	171.75	133.95	164.85	205.55	167.65	190.05	237.30	196.40	179.35
28	176.50	136.70	168.45	210.85	171.70	194.90	243.85	201.50	183.90
29	181.25	139.45	172.05	216.15	175.75	199.75	250.40	206.60	188.45
30	186.00	142.20	175.65	221.45	179.80	204.60	256.95	211.70	193.00
31	189.95	144.95	179.25	226.75	183.85	209.45	263.50	216.80	197.55
32	193.90	147.70	182.85	232.05	187.90	214.30	270.05	221.90	202.10
33	197.85	150.45	186.45	237.35	191.95	219.15	276.60	227.00	206.65
34	201.80	153.20	190.05	242.65	196.00	224.00	283.15	232.10	211.20
35	205.75	155.95	193.65	247.95	200.05	228.85	289.70	237.20	215.75
36	209.70	158.70	197.25	253.25	204.10	233.70	296.25	242.30	220.30
37	213.65	161.45	200.85	258.55	208.15	238.55	302.80	247.40	224.85
38	217.60	164.20	204.45	263.85	212.20	243.40	309.35	252.50	229.40
39	221.55	166.95	208.05	269.15	216.25	248.25	315.90	257.60	233.95
40	225.50	169.70	211.65	274.45	220.30	253.10	322.45	262.70	238.50
41	229.45	172.45	215.25	279.75	224.35	257.95	329.00	267.80	243.05
42	233.40	175.20	218.85	285.05	228.40	262.80	335.55	272.90	247.60
43	237.35	177.95	222.45	290.35	232.45	267.65	342.10	278.00	252.15
44	241.30	180.70	226.05	295.65	236.50	272.50	348.65	283.10	256.70
45	245.25	183.45	229.65	300.95	240.55	277.35	355.20	288.20	261.25
46	249.20	186.20	233.25	306.25	244.60	282.20	361.75	293.30	265.80
47	253.15	188.95	236.85	311.55	248.65	287.05	368.30	298.40	270.35
48	257.10	191.70	240.45	316.85	252.70	291.90	374.85	303.50	274.90
49	261.05	194.45	244.05	322.15	256.75	296.75	381.40	308.60	279.45
50	265.00	197.20	247.65	327.45	260.80	301.60	387.95	313.70	284.00

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	230.40	152.60	183.65	148.30	221.85	177.90	148.30	145.70
27	236.95	155.95	187.90	151.65	227.80	182.35	151.85	149.15
28	243.50	159.30	192.15	155.00	233.75	186.80	155.40	152.60
29	250.05	162.65	196.40	158.35	239.70	191.25	158.95	156.05
30	256.60	166.00	200.65	161.70	245.65	195.70	162.50	159.50
31	263.15	169.35	204.90	165.05	251.60	200.15	166.05	162.95
32	269.70	172.70	209.15	168.40	257.55	204.60	169.60	166.40
33	276.25	176.05	213.40	171.75	263.50	209.05	173.15	169.85
34	282.80	179.40	217.65	175.10	269.45	213.50	176.70	173.30
35	289.35	182.75	221.90	178.45	275.40	217.95	180.25	176.75
36	295.90	186.10	226.15	181.80	281.35	222.40	183.80	180.20
37	302.45	189.45	230.40	185.15	287.30	226.85	187.35	183.65
38	309.00	192.80	234.65	188.50	293.25	231.30	190.90	187.10
39	315.55	196.15	238.90	191.85	299.20	235.75	194.45	190.55
40	322.10	199.50	243.15	195.20	305.15	240.20	198.00	194.00
41	328.65	202.85	247.40	198.55	311.10	244.65	201.55	197.45
42	335.20	206.20	251.65	201.90	317.05	249.10	205.10	200.90
43	341.75	209.55	255.90	205.25	323.00	253.55	208.65	204.35
44	348.30	212.90	260.15	208.60	328.95	258.00	212.20	207.80
45	354.85	216.25	264.40	211.95	334.90	262.45	215.75	211.25
46	361.40	219.60	268.65	215.30	340.85	266.90	219.30	214.70
47	367.95	222.95	272.90	218.65	346.80	271.35	222.85	218.15
48	374.50	226.30	277.15	222.00	352.75	275.80	226.40	221.60
49	381.05	229.65	281.40	225.35	358.70	280.25	229.95	225.05
50	387.60	233.00	285.65	228.70	364.65	284.70	233.50	228.50

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	268.95	199.95	251.25	332.75	264.85	306.45	394.50	318.80	288.55
52	272.90	202.70	254.85	338.05	268.90	311.30	401.05	323.90	293.10

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
53	276.85	205.45	258.45	343.35	272.95	316.15	407.60	329.00	297.65
54	280.80	208.20	262.05	348.65	277.00	321.00	414.15	334.10	302.20
55	284.75	210.95	265.65	353.95	281.05	325.85	420.70	339.20	306.75
56	288.70	213.70	269.25	359.25	285.10	330.70	427.25	344.30	311.30
57	292.65	216.45	272.85	364.55	289.15	335.55	433.80	349.40	315.85
58	296.60	219.20	276.45	369.85	293.20	340.40	440.35	354.50	320.40
59	300.55	221.95	280.05	375.15	297.25	345.25	446.90	359.60	324.95
60	304.50	224.70	283.65	380.45	301.30	350.10	453.45	364.70	329.50
61	308.45	227.45	287.25	385.75	305.35	354.95	460.00	369.80	334.05
62	312.40	230.20	290.85	391.05	309.40	359.80	466.55	374.90	338.60
63	316.35	232.95	294.45	396.35	313.45	364.65	473.10	380.00	343.15
64	320.30	235.70	298.05	401.65	317.50	369.50	479.65	385.10	347.70
65	324.25	238.45	301.65	406.95	321.55	374.35	486.20	390.20	352.25
66	328.20	241.20	305.25	412.25	325.60	379.20	492.75	395.30	356.80
67	.....	243.95	308.85	417.55	329.65	384.05	499.30	400.40	361.35
68	.....	246.70	312.45	422.85	333.70	388.90	505.85	405.50	365.90
69	.....	249.45	316.05	428.15	337.75	393.75	512.40	410.60	370.45
70	.....	252.20	319.65	433.45	341.80	398.60	518.95	415.70	375.00

PRIORITY MAIL EXPRESS INTERNATIONAL RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	394.15	236.35	289.90	232.05	370.60	289.15	237.05	231.95
52	400.70	239.70	294.15	235.40	376.55	293.60	240.60	235.40
53	407.25	243.05	298.40	238.75	382.50	298.05	244.15	238.85
54	413.80	246.40	302.65	242.10	388.45	302.50	247.70	
55	420.35	249.75	306.90	245.45	394.40	306.95	251.25	245.75
56	426.90	253.10	311.15	248.80	400.35	311.40	254.80	249.20
57	433.45	256.45	315.40	252.15	406.30	315.85	258.35	252.65
58	440.00	259.80	319.65	255.50	412.25	320.30	261.90	256.10
59	446.55	263.15	323.90	258.85	418.20	324.75	265.45	259.55
60	453.10	266.50	328.15	262.20	424.15	329.20	269.00	263.00
61	459.65	269.85	332.40	265.55	430.10	333.65	272.55	266.45
62	466.20	273.20	336.65	268.90	436.05	338.10	276.10	269.90
63	472.75	276.55	340.90	272.25	442.00	342.55	279.65	273.35
64	479.30	279.90	345.15	275.60	447.95	347.00	283.20	276.80
65	485.85	283.25	349.40	278.95	453.90	351.45	286.75	280.25
66	492.40	286.60	353.65	282.30	459.85	355.90	290.30	283.70
67	.....	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....	.....

Priority Mail Express International Offered at a Discount at Retail

If a customer requests PMI at a Postal Service retail counter for an item for which postage has not been previously paid, weight-rated PMEI may be offered to certain destinations, for certain weight steps, at a discounted price equivalent to the corresponding weight-based rate in the PMI Parcels Retail price table (2315.6), if all PMEI eligibility requirements are met and the Postal Service determines that service can be improved and/or the PMEI destination country delivery costs are lower than PMI destination country delivery costs.

COUNTRIES AND WEIGHT STEPS FOR WHICH PRIORITY MAIL EXPRESS INTERNATIONAL OFFERED AT A DISCOUNT AT RETAIL IS AVAILABLE

Country	Weight steps (lbs.)
Australia	8–66
Brazil	5–66
Chile	8–44
China	1–10
France	2–66
Germany	1–4

COUNTRIES AND WEIGHT STEPS FOR WHICH PRIORITY MAIL EXPRESS INTERNATIONAL OFFERED AT A DISCOUNT AT RETAIL IS AVAILABLE—Continued

Country	Weight steps (lbs.)
Great Britain	2–66
India	19–44
Israel	1–5
Mexico	50–70
New Zealand	8–66
Philippines	19–44
Russia	4–44
Spain	1–10

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	40.38	51.30	54.10	62.65	57.48	57.48	58.19	55.10	53.20
1	44.13	53.44	58.14	63.94	59.23	61.13	63.65	60.23	57.71
2	48.83	57.29	63.41	69.02	63.08	65.65	69.87	65.17	62.23
3	53.53	61.13	68.69	74.10	66.93	70.16	76.10	70.11	66.74
4	58.24	64.98	73.96	79.18	70.78	74.67	82.32	75.05	71.25
5	62.94	68.83	79.23	84.27	74.62	79.18	88.54	79.99	75.76
6	67.64	71.54	83.08	89.35	78.47	83.79	94.76	84.84	79.99
7	72.34	74.24	86.93	94.43	82.32	88.40	100.99	89.68	84.22
8	77.05	76.95	90.77	99.51	86.17	93.01	107.21	94.53	88.45
9	81.75	79.66	94.62	104.60	90.01	97.61	113.43	99.37	92.67
10	86.45	82.37	98.47	109.68	93.86	102.22	119.65	104.22	96.90
11	90.96	85.07	101.89	114.71	97.71	106.83	125.88	109.06	101.22
12	95.48	87.78	105.31	119.75	101.56	111.44	132.10	113.91	105.55
13	99.99	90.49	108.73	124.78	105.40	116.04	138.32	118.75	109.87
14	104.50	93.20	112.15	129.82	109.25	120.65	144.54	123.60	114.19
15	109.01	95.90	115.57	134.85	113.10	125.26	150.77	128.44	118.51
16	113.53	98.52	118.99	139.89	116.95	129.87	156.99	133.29	122.84
17	118.04	101.13	122.41	144.92	120.79	134.47	163.21	138.13	127.16
18	122.55	103.74	125.83	149.96	124.64	139.08	169.43	142.98	131.48
19	127.06	106.35	129.25	154.99	128.49	143.69	175.66	147.82	135.80
20	131.58	108.97	132.67	160.03	132.34	148.30	181.88	152.67	140.13
21	136.09	111.58	136.09	165.06	136.18	152.90	188.10	157.51	144.45
22	140.60	114.19	139.51	170.10	140.03	157.51	194.32	162.36	148.77
23	145.11	116.80	142.93	175.13	143.88	162.12	200.55	167.20	153.09
24	149.63	119.42	146.35	180.17	147.73	166.73	206.77	172.05	157.42
25	154.14	122.03	149.77	185.20	151.57	171.33	212.99	176.89	161.74

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	62.23	59.85	58.85	59.85	59.14	60.33	59.85	59.85
1	64.93	61.61	65.55	61.70	60.61	63.70	61.32	61.61
2	70.87	65.74	70.63	64.79	66.45	67.83	64.22	64.32
3	76.81	69.87	75.72	67.88	72.30	71.96	67.12	67.02
4	82.75	74.01	80.80	70.97	78.14	76.10	70.02	69.73
5	88.68	78.14	85.88	74.05	83.98	80.23	72.91	72.44
6	94.81	81.32	90.68	77.24	89.92	84.46	75.72	75.15
7	100.94	84.50	95.48	80.42	95.86	88.68	78.52	77.85
8	107.07	87.69	100.27	83.60	101.79	92.91	81.32	80.56
9	113.19	90.87	105.07	86.78	107.73	97.14	84.12	83.27
10	119.32	94.05	109.87	89.97	113.67	101.37	86.93	85.98
11	125.54	97.23	113.91	93.15	119.99	105.59	90.30	89.25
12	131.77	100.42	117.94	96.33	126.30	109.82	93.67	92.53
13	137.99	103.60	121.98	99.51	132.62	114.05	97.04	95.81
14	144.21	106.78	126.02	102.70	138.94	118.28	100.42	99.09
15	150.43	109.96	130.06	105.88	145.26	122.50	103.79	102.36
16	156.66	113.15	134.09	109.06	151.57	126.73	107.16	105.64
17	162.88	116.33	138.13	112.24	157.89	130.96	110.53	108.92
18	169.10	119.51	142.17	115.43	164.21	135.19	113.91	112.20

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
19	175.32	122.69	146.21	118.61	170.53	139.41	117.28	115.47
20	181.55	125.88	150.24	121.79	176.84	143.64	120.65	118.75
21	187.77	129.06	154.28	124.97	182.50	147.87	124.02	122.03
22	193.99	132.24	158.32	128.16	188.15	152.10	127.40	125.31
23	200.21	135.42	162.36	131.34	193.80	156.32	130.77	128.58
24	206.44	138.61	166.39	134.52	199.45	160.55	134.14	131.86
25	212.66	141.79	170.43	137.70	205.11	164.78	137.51	135.14

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	158.65	124.64	153.19	190.24	155.42	175.94	219.21	181.74	166.06
27	163.16	127.25	156.61	195.27	159.27	180.55	225.44	186.58	170.38
28	167.68	129.87	160.03	200.31	163.12	185.16	231.66	191.43	174.71
29	172.19	132.48	163.45	205.34	166.96	189.76	237.88	196.27	179.03
30	176.70	135.09	166.87	210.38	170.81	194.37	244.10	201.12	183.35
31	180.45	137.70	170.29	215.41	174.66	198.98	250.33	205.96	187.67
32	184.21	140.32	173.71	220.45	178.51	203.59	256.55	210.81	192.00
33	187.96	142.93	177.13	225.48	182.35	208.19	262.77	215.65	196.32
34	191.71	145.54	180.55	230.52	186.20	212.80	268.99	220.50	200.64
35	195.46	148.15	183.97	235.55	190.05	217.41	275.22	225.34	204.96
36	199.22	150.77	187.39	240.59	193.90	222.02	281.44	230.19	209.29
37	202.97	153.38	190.81	245.62	197.74	226.62	287.66	235.03	213.61
38	206.72	155.99	194.23	250.66	201.59	231.23	293.88	239.88	217.93
39	210.47	158.60	197.65	255.69	205.44	235.84	300.11	244.72	222.25
40	214.23	161.22	201.07	260.73	209.29	240.45	306.33	249.57	226.58
41	217.98	163.83	204.49	265.76	213.13	245.05	312.55	254.41	230.90
42	221.73	166.44	207.91	270.80	216.98	249.66	318.77	259.26	235.22
43	225.48	169.05	211.33	275.83	220.83	254.27	325.00	264.10	239.54
44	229.24	171.67	214.75	280.87	224.68	258.88	331.22	268.95	243.87
45	232.99	174.28	218.17	285.90	228.52	263.48	337.44	273.79	248.19
46	236.74	176.89	221.59	290.94	232.37	268.09	343.66	278.64	252.51
47	240.49	179.50	225.01	295.97	236.22	272.70	349.89	283.48	256.83
48	244.25	182.12	228.43	301.01	240.07	277.31	356.11	288.33	261.16
49	248.00	184.73	231.85	306.04	243.91	281.91	362.33	293.17	265.48
50	251.75	187.34	235.27	311.08	247.76	286.52	368.55	298.02	269.80

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	218.88	144.97	174.47	140.89	210.76	169.01	140.89	138.42
27	225.10	148.15	178.51	144.07	216.41	173.23	144.26	141.69
28	231.33	151.34	182.54	147.25	222.06	177.46	147.63	144.97
29	237.55	154.52	186.58	150.43	227.72	181.69	151.00	148.25
30	243.77	157.70	190.62	153.62	233.37	185.92	154.38	151.53
31	249.99	160.88	194.66	156.80	239.02	190.14	157.75	154.80
32	256.22	164.07	198.69	159.98	244.67	194.37	161.12	158.08
33	262.44	167.25	202.73	163.16	250.33	198.60	164.49	161.36
34	268.66	170.43	206.77	166.35	255.98	202.83	167.87	164.64
35	274.88	173.61	210.81	169.53	261.63	207.05	171.24	167.91
36	281.11	176.80	214.84	172.71	267.28	211.28	174.61	171.19
37	287.33	179.98	218.88	175.89	272.94	215.51	177.98	174.47
38	293.55	183.16	222.92	179.08	278.59	219.74	181.36	177.75
39	299.77	186.34	226.96	182.26	284.24	223.96	184.73	181.02
40	306.00	189.53	230.99	185.44	289.89	228.19	188.10	184.30
41	312.22	192.71	235.03	188.62	295.55	232.42	191.47	187.58
42	318.44	195.89	239.07	191.81	301.20	236.65	194.85	190.86
43	324.66	199.07	243.11	194.99	306.85	240.87	198.22	194.13
44	330.89	202.26	247.14	198.17	312.50	245.10	201.59	197.41
45	337.11	205.44	251.18	201.35	318.16	249.33	204.96	200.69

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
46	343.33	208.62	255.22	204.54	323.81	253.56	208.34	203.97
47	349.55	211.80	259.26	207.72	329.46	257.78	211.71	207.24
48	355.78	214.99	263.29	210.90	335.11	262.01	215.08	210.52
49	362.00	218.17	267.33	214.08	340.77	266.24	218.45	213.80
50	368.22	221.35	271.37	217.27	346.42	270.47	221.83	217.08

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	255.50	189.95	238.69	316.11	251.61	291.13	374.78	302.86	274.12
52	259.26	192.57	242.11	321.15	255.46	295.74	381.00	307.71	278.45
53	263.01	195.18	245.53	326.18	259.30	300.34	387.22	312.55	282.77
54	266.76	197.79	248.95	331.22	263.15	304.95	393.44	317.40	287.09
55	270.51	200.40	252.37	336.25	267.00	309.56	399.67	322.24	291.41
56	274.27	203.02	255.79	341.29	270.85	314.17	405.89	327.09	295.74
57	278.02	205.63	259.21	346.32	274.69	318.77	412.11	331.93	300.06
58	281.77	208.24	262.63	351.36	278.54	323.38	418.33	336.78	304.38
59	285.52	210.85	266.05	356.39	282.39	327.99	424.56	341.62	308.70
60	289.28	213.47	269.47	361.43	286.24	332.60	430.78	346.47	313.03
61	293.03	216.08	272.89	366.46	290.08	337.20	437.00	351.31	317.35
62	296.78	218.69	276.31	371.50	293.93	341.81	443.22	356.16	321.67
63	300.53	221.30	279.73	376.53	297.78	346.42	449.45	361.00	325.99
64	304.29	223.92	283.15	381.57	301.63	351.03	455.67	365.85	330.32
65	308.04	226.53	286.57	386.60	305.47	355.63	461.89	370.69	334.64
66	311.79	229.14	289.99	391.64	309.32	360.24	468.11	375.54	338.96
67		231.75	293.41	396.67	313.17	364.85	474.34	380.38	343.28
68		234.37	296.83	401.71	317.02	369.46	480.56	385.23	347.61
69		236.98	300.25	406.74	320.86	374.06	486.78	390.07	351.93
70		239.59	303.67	411.78	324.71	378.67	493.00	394.92	356.25

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	374.44	224.53	275.41	220.45	352.07	274.69	225.20	220.35
52	380.67	227.72	279.44	223.63	357.72	278.92	228.57	223.63
53	386.89	230.90	283.48	226.81	363.38	283.15	231.94	226.91
54	393.11	234.08	287.52	230.00	369.03	287.38	235.32	230.19
55	399.33	237.26	291.56	233.18	374.68	291.60	238.69	233.46
56	405.56	240.45	295.59	236.36	380.33	295.83	242.06	236.74
57	411.78	243.63	299.63	239.54	385.99	300.06	245.43	240.02
58	418.00	246.81	303.67	242.73	391.64	304.29	248.81	243.30
59	424.22	249.99	307.71	245.91	397.29	308.51	252.18	246.57
60	430.45	253.18	311.74	249.09	402.94	312.74	255.55	249.85
61	436.67	256.36	315.78	252.27	408.60	316.97	258.92	253.13
62	442.89	259.54	319.82	255.46	414.25	321.20	262.30	256.41
63	449.11	262.72	323.86	258.64	419.90	325.42	265.67	259.68
64	455.34	265.91	327.89	261.82	425.55	329.65	269.04	262.96
65	461.56	269.09	331.93	265.00	431.21	333.88	272.41	266.24
66	467.78	272.27	335.97	268.19	436.86	338.11	275.79	269.52
67								
68								
69								
70								

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
0.5	40.38	51.30	54.10	62.65	57.48	57.48	58.19	55.10	53.20
1	44.13	53.44	58.14	63.94	59.23	61.13	63.65	60.23	57.71
2	48.83	57.29	63.41	69.02	63.08	65.65	69.87	65.17	62.23
3	53.53	61.13	68.69	74.10	66.93	70.16	76.10	70.11	66.74
4	58.24	64.98	73.96	79.18	70.78	74.67	82.32	75.05	71.25
5	62.94	68.83	79.23	84.27	74.62	79.18	88.54	79.99	75.76
6	67.64	71.54	83.08	89.35	78.47	83.79	94.76	84.84	79.99
7	72.34	74.24	86.93	94.43	82.32	88.40	100.99	89.68	84.22
8	77.05	76.95	90.77	99.51	86.17	93.01	107.21	94.53	88.45
9	81.75	79.66	94.62	104.60	90.01	97.61	113.43	99.37	92.67
10	86.45	82.37	98.47	109.68	93.86	102.22	119.65	104.22	96.90
11	90.96	85.07	101.89	114.71	97.71	106.83	125.88	109.06	101.22
12	95.48	87.78	105.31	119.75	101.56	111.44	132.10	113.91	105.55
13	99.99	90.49	108.73	124.78	105.40	116.04	138.32	118.75	109.87
14	104.50	93.20	112.15	129.82	109.25	120.65	144.54	123.60	114.19
15	109.01	95.90	115.57	134.85	113.10	125.26	150.77	128.44	118.51
16	113.53	98.52	118.99	139.89	116.95	129.87	156.99	133.29	122.84
17	118.04	101.13	122.41	144.92	120.79	134.47	163.21	138.13	127.16
18	122.55	103.74	125.83	149.96	124.64	139.08	169.43	142.98	131.48
19	127.06	106.35	129.25	154.99	128.49	143.69	175.66	147.82	135.80
20	131.58	108.97	132.67	160.03	132.34	148.30	181.88	152.67	140.13
21	136.09	111.58	136.09	165.06	136.18	152.90	188.10	157.51	144.45
22	140.60	114.19	139.51	170.10	140.03	157.51	194.32	162.36	148.77
23	145.11	116.80	142.93	175.13	143.88	162.12	200.55	167.20	153.09
24	149.63	119.42	146.35	180.17	147.73	166.73	206.77	172.05	157.42
25	154.14	122.03	149.77	185.20	151.57	171.33	212.99	176.89	161.74

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
0.5	62.23	59.85	58.85	59.85	59.14	60.33	59.85	59.85
1	64.93	61.61	65.55	61.70	60.61	63.70	61.32	61.61
2	70.87	65.74	70.63	64.79	66.45	67.83	64.22	64.32
3	76.81	69.87	75.72	67.88	72.30	71.96	67.12	67.02
4	82.75	74.01	80.80	70.97	78.14	76.10	70.02	69.73
5	88.68	78.14	85.88	74.05	83.98	80.23	72.91	72.44
6	94.81	81.32	90.68	77.24	89.92	84.46	75.72	75.15
7	100.94	84.50	95.48	80.42	95.86	88.68	78.52	77.85
8	107.07	87.69	100.27	83.60	101.79	92.91	81.32	80.56
9	113.19	90.87	105.07	86.78	107.73	97.14	84.12	83.27
10	119.32	94.05	109.87	89.97	113.67	101.37	86.93	85.98
11	125.54	97.23	113.91	93.15	119.99	105.59	90.30	89.25
12	131.77	100.42	117.94	96.33	126.30	109.82	93.67	92.53
13	137.99	103.60	121.98	99.51	132.62	114.05	97.04	95.81
14	144.21	106.78	126.02	102.70	138.94	118.28	100.42	99.09
15	150.43	109.96	130.06	105.88	145.26	122.50	103.79	102.36
16	156.66	113.15	134.09	109.06	151.57	126.73	107.16	105.64
17	162.88	116.33	138.13	112.24	157.89	130.96	110.53	108.92
18	169.10	119.51	142.17	115.43	164.21	135.19	113.91	112.20
19	175.32	122.69	146.21	118.61	170.53	139.41	117.28	115.47
20	181.55	125.88	150.24	121.79	176.84	143.64	120.65	118.75
21	187.77	129.06	154.28	124.97	182.50	147.87	124.02	122.03
22	193.99	132.24	158.32	128.16	188.15	152.10	127.40	125.31
23	200.21	135.42	162.36	131.34	193.80	156.32	130.77	128.58
24	206.44	138.61	166.39	134.52	199.45	160.55	134.14	131.86
25	212.66	141.79	170.43	137.70	205.11	164.78	137.51	135.14

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	158.65	124.64	153.19	190.24	155.42	175.94	219.21	181.74	166.06
27	163.16	127.25	156.61	195.27	159.27	180.55	225.44	186.58	170.38
28	167.68	129.87	160.03	200.31	163.12	185.16	231.66	191.43	174.71
29	172.19	132.48	163.45	205.34	166.96	189.76	237.88	196.27	179.03
30	176.70	135.09	166.87	210.38	170.81	194.37	244.10	201.12	183.35
31	180.45	137.70	170.29	215.41	174.66	198.98	250.33	205.96	187.67
32	184.21	140.32	173.71	220.45	178.51	203.59	256.55	210.81	192.00
33	187.96	142.93	177.13	225.48	182.35	208.19	262.77	215.65	196.32
34	191.71	145.54	180.55	230.52	186.20	212.80	268.99	220.50	200.64
35	195.46	148.15	183.97	235.55	190.05	217.41	275.22	225.34	204.96
36	199.22	150.77	187.39	240.59	193.90	222.02	281.44	230.19	209.29
37	202.97	153.38	190.81	245.62	197.74	226.62	287.66	235.03	213.61
38	206.72	155.99	194.23	250.66	201.59	231.23	293.88	239.88	217.93
39	210.47	158.60	197.65	255.69	205.44	235.84	300.11	244.72	222.25
40	214.23	161.22	201.07	260.73	209.29	240.45	306.33	249.57	226.58
41	217.98	163.83	204.49	265.76	213.13	245.05	312.55	254.41	230.90
42	221.73	166.44	207.91	270.80	216.98	249.66	318.77	259.26	235.22
43	225.48	169.05	211.33	275.83	220.83	254.27	325.00	264.10	239.54
44	229.24	171.67	214.75	280.87	224.68	258.88	331.22	268.95	243.87
45	232.99	174.28	218.17	285.90	228.52	263.48	337.44	273.79	248.19
46	236.74	176.89	221.59	290.94	232.37	268.09	343.66	278.64	252.51
47	240.49	179.50	225.01	295.97	236.22	272.70	349.89	283.48	256.83
48	244.25	182.12	228.43	301.01	240.07	277.31	356.11	288.33	261.16
49	248.00	184.73	231.85	306.04	243.91	281.91	362.33	293.17	265.48
50	251.75	187.34	235.27	311.08	247.76	286.52	368.55	298.02	269.80

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	218.88	144.97	174.47	140.89	210.76	169.01	140.89	138.42
27	225.10	148.15	178.51	144.07	216.41	173.23	144.26	141.69
28	231.33	151.34	182.54	147.25	222.06	177.46	147.63	144.97
29	237.55	154.52	186.58	150.43	227.72	181.69	151.00	148.25
30	243.77	157.70	190.62	153.62	233.37	185.92	154.38	151.53
31	249.99	160.88	194.66	156.80	239.02	190.14	157.75	154.80
32	256.22	164.07	198.69	159.98	244.67	194.37	161.12	158.08
33	262.44	167.25	202.73	163.16	250.33	198.60	164.49	161.36
34	268.66	170.43	206.77	166.35	255.98	202.83	167.87	164.64
35	274.88	173.61	210.81	169.53	261.63	207.05	171.24	167.91
36	281.11	176.80	214.84	172.71	267.28	211.28	174.61	171.19
37	287.33	179.98	218.88	175.89	272.94	215.51	177.98	174.47
38	293.55	183.16	222.92	179.08	278.59	219.74	181.36	177.75
39	299.77	186.34	226.96	182.26	284.24	223.96	184.73	181.02
40	306.00	189.53	230.99	185.44	289.89	228.19	188.10	184.30
41	312.22	192.71	235.03	188.62	295.55	232.42	191.47	187.58
42	318.44	195.89	239.07	191.81	301.20	236.65	194.85	190.86
43	324.66	199.07	243.11	194.99	306.85	240.87	198.22	194.13
44	330.89	202.26	247.14	198.17	312.50	245.10	201.59	197.41
45	337.11	205.44	251.18	201.35	318.16	249.33	204.96	200.69
46	343.33	208.62	255.22	204.54	323.81	253.56	208.34	203.97
47	349.55	211.80	259.26	207.72	329.46	257.78	211.71	207.24
48	355.78	214.99	263.29	210.90	335.11	262.01	215.08	210.52
49	362.00	218.17	267.33	214.08	340.77	266.24	218.45	213.80
50	368.22	221.35	271.37	217.27	346.42	270.47	221.83	217.08

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	255.50	189.95	238.69	316.11	251.61	291.13	374.78	302.86	274.12
52	259.26	192.57	242.11	321.15	255.46	295.74	381.00	307.71	278.45

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
53	263.01	195.18	245.53	326.18	259.30	300.34	387.22	312.55	282.77
54	266.76	197.79	248.95	331.22	263.15	304.95	393.44	317.40	287.09
55	270.51	200.40	252.37	336.25	267.00	309.56	399.67	322.24	291.41
56	274.27	203.02	255.79	341.29	270.85	314.17	405.89	327.09	295.74
57	278.02	205.63	259.21	346.32	274.69	318.77	412.11	331.93	300.06
58	281.77	208.24	262.63	351.36	278.54	323.38	418.33	336.78	304.38
59	285.52	210.85	266.05	356.39	282.39	327.99	424.56	341.62	308.70
60	289.28	213.47	269.47	361.43	286.24	332.60	430.78	346.47	313.03
61	293.03	216.08	272.89	366.46	290.08	337.20	437.00	351.31	317.35
62	296.78	218.69	276.31	371.50	293.93	341.81	443.22	356.16	321.67
63	300.53	221.30	279.73	376.53	297.78	346.42	449.45	361.00	325.99
64	304.29	223.92	283.15	381.57	301.63	351.03	455.67	365.85	330.32
65	308.04	226.53	286.57	386.60	305.47	355.63	461.89	370.69	334.64
66	311.79	229.14	289.99	391.64	309.32	360.24	468.11	375.54	338.96
67	.....	231.75	293.41	396.67	313.17	364.85	474.34	380.38	343.28
68	.....	234.37	296.83	401.71	317.02	369.46	480.56	385.23	347.61
69	.....	236.98	300.25	406.74	320.86	374.06	486.78	390.07	351.93
70	.....	239.59	303.67	411.78	324.71	378.67	493.00	394.92	356.25

PRIORITY MAIL EXPRESS INTERNATIONAL COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	374.44	224.53	275.41	220.45	352.07	274.69	225.20	220.35
52	380.67	227.72	279.44	223.63	357.72	278.92	228.57	223.63
53	386.89	230.90	283.48	226.81	363.38	283.15	231.94	226.91
54	393.11	234.08	287.52	230.00	369.03	287.38	235.32	230.19
55	399.33	237.26	291.56	233.18	374.68	291.60	238.69	233.46
56	405.56	240.45	295.59	236.36	380.33	295.83	242.06	236.74
57	411.78	243.63	299.63	239.54	385.99	300.06	245.43	240.02
58	418.00	246.81	303.67	242.73	391.64	304.29	248.81	243.30
59	424.22	249.99	307.71	245.91	397.29	308.51	252.18	246.57
60	430.45	253.18	311.74	249.09	402.94	312.74	255.55	249.85
61	436.67	256.36	315.78	252.27	408.60	316.97	258.92	253.13
62	442.89	259.54	319.82	255.46	414.25	321.20	262.30	256.41
63	449.11	262.72	323.86	258.64	419.90	325.42	265.67	259.68
64	455.34	265.91	327.89	261.82	425.55	329.65	269.04	262.96
65	461.56	269.09	331.93	265.00	431.21	333.88	272.41	266.24
66	467.78	272.27	335.97	268.19	436.86	338.11	275.79	269.52
67	.....	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....	.....

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

2310 Inbound Parcel Post (at UPU rates)

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2315 Outbound Priority Mail International

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2315.6 Prices

PRIORITY MAIL INTERNATIONAL FLAT RATE RETAIL PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	24.95	31.00	32.25	34.25	33.25	35.25	33.25	34.25
Small Flat Rate Boxes	25.95	32.25	33.25	35.25	34.25	36.25	34.25	35.25
Medium Flat Rate Boxes	47.75	69.50	70.75	69.00	72.75	78.95	71.75	74.75
Large Flat Rate Boxes	62.35	90.50	92.50	90.50	94.50	99.75	93.50	97.75

PRIORITY MAIL INTERNATIONAL FLAT RATE COMMERCIAL BASE PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	23.70	29.45	30.65	32.55	31.60	33.50	31.60	32.50
Small Flat Rate Boxes	24.65	30.65	31.60	33.50	32.55	34.45	32.55	33.50
Medium Flat Rate Boxes	45.35	66.00	67.20	65.55	69.10	75.00	68.15	71.00
Large Flat Rate Boxes	59.25	85.95	87.85	85.95	89.80	94.75	88.85	92.85

PRIORITY MAIL INTERNATIONAL FLAT RATE COMMERCIAL PLUS PRICES

	Country price group							
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)
Flat Rate Envelopes	23.70	29.45	30.65	32.55	31.60	33.50	31.60	32.50
Small Flat Rate Boxes	24.65	30.65	31.60	33.50	32.55	34.45	32.55	33.50
Medium Flat Rate Boxes	45.35	66.00	67.20	65.55	69.10	75.00	68.15	71.00
Large Flat Rate Boxes	59.25	85.95	87.85	85.95	89.80	94.75	88.85	92.85

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
1	33.00	34.00	36.40	37.50	38.95	39.50	40.00
2	35.65	36.80	39.25	40.55	42.05	42.55	43.15
3	38.30	39.60	42.10	43.60	45.15	45.60	46.30
4	40.95	42.40	44.95	46.65	48.25	48.65	49.45
5	43.60	45.20	47.80	49.70	51.35	51.70	52.60
6	46.25	47.95	50.75	52.75	54.35	54.85	55.85
7	48.90	50.70	53.70	55.80	57.35	58.00	59.10
8	51.55	53.45	56.65	58.85	60.35	61.15	62.35
9	54.20	56.20	59.60	61.90	63.35	64.30	65.60
10	56.85	58.95	62.55	64.95	66.35	67.45	68.85
11	59.40	61.70	65.30	68.00	69.45	70.70	72.10
12	61.95	64.45	68.05	71.05	72.55	73.95	75.55
13	64.50	67.20	70.80	74.10	75.65	77.20	79.00
14	67.05	69.95	73.55	77.15	78.75	80.45	82.45
15	69.60	72.70	76.30	80.20	81.85	83.70	85.90
16	72.15	75.45	79.05	83.25	84.95	86.95	89.35
17	74.70	78.20	81.80	86.30	88.05	90.20	92.80
18	77.25	80.85	84.55	89.35	91.15	93.45	96.25
19	79.80	83.50	87.30	92.40	94.25	96.70	99.70
20	82.35	86.15	90.05	95.45	97.35	99.95	103.15
21	84.90	88.80	92.80	98.50	100.45	103.20	106.60
22	87.45	91.45	95.55	101.55	103.55	106.45	110.05
23	90.00	94.10	98.30	104.60	106.65	109.70	113.50
24	92.55	96.75	101.05	107.65	109.65	112.95	116.95
25	94.70	99.40	103.80	110.70	112.65	116.20	120.40

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	40.25	43.50	49.75	46.00	47.50	49.00	44.50	42.95
2	43.90	48.65	55.00	49.15	51.65	54.75	49.05	47.50
3	47.55	53.80	60.25	52.30	55.80	60.50	53.60	52.05
4	51.20	58.95	65.50	55.45	59.95	66.25	58.15	56.60
5	54.85	64.10	70.75	58.60	64.10	72.00	62.70	61.15
6	57.50	67.45	75.60	61.45	67.95	77.75	66.55	64.60
7	60.15	70.80	80.45	64.30	71.80	83.50	70.40	68.05
8	62.80	74.15	85.30	67.15	75.65	89.25	74.25	71.50
9	65.45	77.50	90.15	70.00	79.50	95.00	78.10	74.95
10	68.10	80.85	95.00	72.85	83.35	100.75	81.95	78.40

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
11	70.45	84.20	99.85	75.60	87.40	106.80	85.90	81.75
12	72.80	87.55	104.70	78.35	91.45	112.85	89.85	85.10
13	75.15	90.90	109.55	81.10	95.50	118.90	93.80	88.45
14	77.50	94.25	114.40	83.85	99.55	124.95	97.75	91.80
15	79.85	97.60	119.25	86.60	103.60	131.00	101.70	95.15
16	82.20	100.95	124.10	89.35	107.65	137.05	105.65	98.40
17	84.55	104.30	128.95	92.10	111.70	143.10	109.60	101.65
18	86.90	107.65	133.80	94.85	115.75	149.15	113.55	104.90
19	89.25	111.00	138.65	97.60	119.80	155.20	117.50	108.15
20	91.60	114.35	143.50	100.35	123.85	161.25	121.45	111.40
21	93.95	117.70	148.35	103.10	127.90	167.30	125.40	114.65
22	96.30	121.05	153.20	105.85	131.95	173.35	129.35	117.90
23	98.65	124.40	158.05	108.60	136.00	179.40	133.30	121.15
24	101.00	127.75	162.90	111.35	140.05	185.45	137.25	124.40
25	103.35	131.10	167.75	114.10	144.10	191.50	141.20	127.65

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	48.50	50.50	50.00	42.25	49.00	44.95	42.50	42.00
2	53.15	54.95	53.45	46.00	53.65	48.65	46.05	45.75
3	57.80	59.40	56.90	49.75	58.30	52.35	49.60	49.50
4	62.45	63.85	60.35	53.50	62.95	56.05	53.15	53.25
5	67.10	68.30	63.80	57.25	67.60	59.75	56.70	57.00
6	72.25	71.65	66.85	60.40	71.15	63.45	60.05	59.75
7	77.40	75.00	69.90	63.55	74.70	67.15	63.40	62.50
8	82.55	78.35	72.95	66.70	78.25	70.85	66.75	65.25
9	87.70	81.70	76.00	69.85	81.80	74.55	70.10	68.00
10	92.85	85.05	79.05	73.00	85.35	78.25	73.45	70.75
11	97.90	88.20	82.10	75.65	88.90	82.30	75.50	73.30
12	102.95	91.35	85.15	78.30	92.45	86.35	77.55	75.85
13	108.00	94.50	88.20	80.95	96.00	90.40	79.60	78.40
14	113.05	97.65	91.25	83.60	99.55	94.45	81.65	80.95
15	118.10	100.80	94.30	86.25	103.10	98.50	83.70	83.50
16	123.15	103.95	97.35	88.90	106.45	102.55	85.75	86.05
17	128.20	107.10	100.40	91.55	109.80	106.60	87.80	88.60
18	133.25	110.25	103.45	94.20	113.15	110.65	89.85	91.15
19	138.30	113.40	106.50	96.85	116.50	114.70	91.90	93.70
20	143.35	116.55	109.55	99.50	119.85	118.75	93.95	96.25
21	148.40	119.70	112.60	102.15	123.20	122.80	96.00	98.80
22	153.45	122.85	115.65	104.80	126.55	126.85	98.05	101.35
23	158.50	126.00	118.70	107.45	129.90	130.90	100.10	103.90
24	163.55	129.15	121.75	110.10	133.25	134.95	102.15	106.45
25	168.60	132.30	124.80	112.75	136.60	139.00	104.20	109.00

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
26	96.85	102.05	106.55	113.65	115.65	119.45	123.85
27	99.00	104.70	109.30	116.60	118.65	122.70	127.30
28	101.15	107.35	112.05	119.55	121.65	125.95	130.75
29	103.30	110.00	114.80	122.50	124.65	129.20	134.20
30	105.45	112.65	117.55	125.45	127.65	132.45	137.65
31	107.60	115.30	120.30	128.40	130.65	135.70	141.10
32	109.75	117.95	123.05	131.35	133.65	138.95	144.55
33	111.90	120.60	125.80	134.30	136.65	142.20	148.00
34	114.05	123.25	128.55	137.25	139.65	145.45	151.45
35	116.20	125.90	131.30	140.20	142.65	148.70	154.90
36	118.35	128.55	134.05	143.15	145.65	151.95	158.35

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
37	120.50	131.20	136.80	146.10	148.65	155.20	161.80
38	122.65	133.85	139.55	149.05	151.65	158.45	165.25
39	124.80	136.50	142.30	152.00	154.65	161.70	168.70
40	126.95	139.15	145.05	154.95	157.65	164.95	172.15
41	129.10	141.80	147.80	157.90	160.65	168.20	175.60
42	131.25	144.45	150.55	160.85	163.65	171.45	179.05
43	133.40	147.10	153.30	163.80	166.65	174.70	182.50
44	135.55	149.75	156.05	166.75	169.65	177.95	185.95
45	137.70	152.40	158.80	169.70	172.65	181.20	189.40
46	139.85	155.05	161.55	172.65	175.65	184.45	192.85
47	142.00	157.70	164.30	175.60	178.65	187.70	196.30
48	144.15	160.35	167.05	178.55	181.65	190.95	199.75
49	146.30	163.00	169.80	181.50	184.65	194.20	203.20
50	148.45	165.65	172.55	184.45	187.65	197.45	206.65

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	105.70	134.45	172.60	116.85	148.15	197.55	145.15	130.90
27	108.05	137.80	177.45	119.60	152.20	203.60	149.10	134.15
28	110.40	141.15	182.30	122.35	156.25	209.65	153.05	137.40
29	112.75	144.50	187.15	125.10	160.30	215.70	157.00	140.65
30	115.10	147.85	192.00	127.85	164.35	221.75	160.95	143.90
31	117.45	151.20	196.85	130.60	168.40	227.80	164.90	147.15
32	119.80	154.55	201.70	133.35	172.45	233.85	168.85	150.40
33	122.15	157.90	206.55	136.10	176.50	239.90	172.80	153.65
34	124.50	161.25	211.40	138.85	180.55	245.95	176.75	156.90
35	126.85	164.60	216.25	141.60	184.60	252.00	180.70	160.15
36	129.20	167.95	221.10	144.35	188.65	258.05	184.65	163.40
37	131.55	171.30	225.95	147.10	192.70	264.10	188.60	166.65
38	133.90	174.65	230.80	149.85	196.75	270.15	192.55	169.90
39	136.25	178.00	235.65	152.60	200.80	276.20	196.50	173.15
40	138.60	181.35	240.50	155.35	204.85	282.25	200.45	176.40
41	140.95	184.70	245.35	158.10	208.90	288.30	204.40	179.65
42	143.30	188.05	250.20	160.85	212.95	294.35	208.35	182.90
43	145.65	191.40	255.05	163.60	217.00	300.40	212.30	186.15
44	148.00	194.75	259.90	166.35	221.05	306.45	216.25	189.40
45	150.35	198.10	264.75	169.10	225.10	312.50	220.20	192.65
46	152.70	201.45	269.60	171.85	229.15	318.55	224.15	195.90
47	155.05	204.80	274.45	174.60	233.20	324.60	228.10	199.15
48	157.40	208.15	279.30	177.35	237.25	330.65	232.05	202.40
49	159.75	211.50	284.15	180.10	241.30	336.70	236.00	205.65
50	162.10	214.85	289.00	182.85	245.35	342.75	239.95	208.90

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	173.65	135.45	127.85	115.40	139.95	143.05	106.25	111.55
27	178.70	138.60	130.90	118.05	143.30	147.10	108.30	114.10
28	183.75	141.75	133.95	120.70	146.65	151.15	110.35	116.65
29	188.80	144.90	137.00	123.35	150.00	155.20	112.40	119.20
30	193.85	148.05	140.05	126.00	153.35	159.25	114.45	121.75
31	198.90	151.20	143.10	128.65	156.70	163.30	116.50	124.30
32	203.95	154.35	146.15	131.30	160.05	167.35	118.55	126.85
33	209.00	157.50	149.20	133.95	163.40	171.40	120.60	129.40
34	214.05	160.65	152.25	136.60	166.75	175.45	122.65	131.95
35	219.10	163.80	155.30	139.25	170.10	179.50	124.70	134.50
36	224.15	166.95	158.35	141.90	173.45	183.55	126.75	137.05
37	229.20	170.10	161.40	144.55	176.80	187.60	128.80	139.60

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
38	234.25	173.25	164.45	147.20	180.15	191.65	130.85	142.15
39	239.30	176.40	167.50	149.85	183.50	195.70	132.90	144.70
40	244.35	179.55	170.55	152.50	186.85	199.75	134.95	147.25
41	249.40	182.70	173.60	155.15	190.20	203.80	137.00	149.80
42	254.45	185.85	176.65	157.80	193.55	207.85	139.05	152.35
43	259.50	189.00	179.70	160.45	196.90	211.90	141.10	154.90
44	264.55	192.15	182.75	163.10	200.25	215.95	143.15	157.45
45	269.60	195.30	185.80	165.75	203.60	220.00	145.20	160.00
46	274.65	198.45	188.85	168.40	206.95	224.05	147.25	162.55
47	279.70	201.60	191.90	171.05	210.30	228.10	149.30	165.10
48	284.75	204.75	194.95	173.70	213.65	232.15	151.35	167.65
49	289.80	207.90	198.00	176.35	217.00	236.20	153.40	170.20
50	294.85	211.05	201.05	179.00	220.35	240.25	155.45	172.75

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
51	150.60	168.30	175.30	187.20	190.65	200.70	210.10
52	152.75	170.95	178.05	189.95	193.65	203.95	213.55
53	154.90	173.60	180.80	192.70	196.65	207.20	217.00
54	157.05	176.25	183.55	195.45	199.65	210.45	220.45
55	159.20	178.90	186.30	198.20	202.65	213.70	223.90
56	161.35	181.55	189.05	200.95	205.65	216.95	227.35
57	163.50	184.20	191.80	203.70	208.65	220.20	230.80
58	165.65	186.85	194.55	206.45	211.65	223.45	234.25
59	167.80	189.50	197.30	209.20	214.65	226.70	237.70
60	169.95	192.15	200.05	211.95	217.65	229.95	241.15
61	172.10	194.80	202.80	214.70	220.65	233.20	244.60
62	174.25	197.45	205.55	217.45	223.65	236.45	248.05
63	176.40	200.10	208.30	220.20	226.65	239.70	251.50
64	178.55	202.75	211.05	222.95	229.65	242.95	254.95
65	180.70	205.40	213.80	225.70	232.65	246.20	258.40
66	182.85	208.05	216.55	228.45	235.65	249.45	261.85
67	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	164.45	218.20	293.85	185.60	249.40	348.80	243.90	212.15
52	166.80	221.55	298.70	188.35	253.45	354.85	247.85	215.40
53	169.15	224.90	303.55	191.10	257.50	360.90	251.80	218.65
54	171.50	228.25	308.40	193.85	261.55	366.95	255.75	221.90
55	173.85	231.60	313.25	196.60	265.60	373.00	259.70	225.15
56	176.20	234.95	318.10	199.35	269.65	379.05	263.65	228.40
57	178.55	238.30	322.95	202.10	273.70	385.10	267.60	231.65
58	180.90	241.65	327.80	204.85	277.75	391.15	271.55	234.90
59	183.25	245.00	332.65	207.60	281.80	397.20	275.50	238.15
60	185.60	248.35	337.50	210.35	285.85	403.25	279.45	241.40
61	187.95	251.70	342.35	213.10	289.90	409.30	283.40	244.65
62	190.30	255.05	347.20	215.85	293.95	415.35	287.35	247.90
63	192.65	258.40	352.05	218.60	298.00	421.40	291.30	251.15
64	195.00	261.75	356.90	221.35	302.05	427.45	295.25	254.40
65	197.35	265.10	361.75	224.10	306.10	433.50	299.20	257.65
66	199.70	268.45	366.60	226.85	310.15	439.55	303.15	260.90
67	202.05	271.80	371.45	229.60	314.20	445.60	307.10	264.15
68	204.40	275.15	376.30	232.35	318.25	451.65	311.05	267.40

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
69	206.75	278.50	381.15	235.10	322.30	457.70	315.00	270.65
70	209.10	281.85	386.00	237.85	326.35	463.75	318.95	273.90

PRIORITY MAIL INTERNATIONAL PARCELS RETAIL PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	299.90	214.20	204.10	181.65	223.70	244.30	157.50	175.30
52	304.95	217.35	207.15	184.30	227.05	248.35	159.55	177.85
53	310.00	220.50	210.20	186.95	230.40	252.40	161.60	180.40
54	315.05	223.65	213.25	189.60	233.75	256.45	163.65	182.95
55	320.10	226.80	216.30	192.25	237.10	260.50	165.70	185.50
56	325.15	229.95	219.35	194.90	240.45	264.55	167.75	188.05
57	330.20	233.10	222.40	197.55	243.80	268.60	169.80	190.60
58	335.25	236.25	225.45	200.20	247.15	272.65	171.85	193.15
59	340.30	239.40	228.50	202.85	250.50	276.70	173.90	195.70
60	345.35	242.55	231.55	205.50	253.85	280.75	175.95	198.25
61	350.40	245.70	234.60	208.15	257.20	284.80	178.00	200.80
62	355.45	248.85	237.65	210.80	260.55	288.85	180.05	203.35
63	360.50	252.00	240.70	213.45	263.90	292.90	182.10	205.90
64	365.55	255.15	243.75	216.10	267.25	296.95	184.15	208.45
65	370.60	258.30	246.80	218.75	270.60	301.00	186.20	211.00
66	375.65	261.45	249.85	221.40	273.95	305.05	188.25	213.55
67	.....	.....	.....	.....	.....	.....	190.30	.....
68	.....	.....	.....	.....	.....	.....	192.35	.....
69	.....	.....	.....	.....	.....	.....	194.40	.....
70	.....	.....	.....	.....	.....	.....	196.45	.....

Notes

[1] The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
1	31.35	32.30	34.58	35.63	37.00	37.53	38.00
2	33.87	34.96	37.29	38.52	39.95	40.42	40.99
3	36.39	37.62	40.00	41.42	42.89	43.32	43.99
4	38.90	40.28	42.70	44.32	45.84	46.22	46.98
5	41.42	42.94	45.41	47.22	48.78	49.12	49.97
6	43.94	45.55	48.21	50.11	51.63	52.11	53.06
7	46.46	48.17	51.02	53.01	54.48	55.10	56.15
8	48.97	50.78	53.82	55.91	57.33	58.09	59.23
9	51.49	53.39	56.62	58.81	60.18	61.09	62.32
10	54.01	56.00	59.42	61.70	63.03	64.08	65.41
11	56.43	58.62	62.04	64.60	65.98	67.17	68.50
12	58.85	61.23	64.65	67.50	68.92	70.25	71.77
13	61.28	63.84	67.26	70.40	71.87	73.34	75.05
14	63.70	66.45	69.87	73.29	74.81	76.43	78.33
15	66.12	69.07	72.49	76.19	77.76	79.52	81.61
16	68.54	71.68	75.10	79.09	80.70	82.60	84.88
17	70.97	74.29	77.71	81.99	83.65	85.69	88.16
18	73.39	76.81	80.32	84.88	86.59	88.78	91.44
19	75.81	79.33	82.94	87.78	89.54	91.87	94.72
20	78.23	81.84	85.55	90.68	92.48	94.95	97.99
21	80.66	84.36	88.16	93.58	95.43	98.04	101.27
22	83.08	86.88	90.77	96.47	98.37	101.13	104.55
23	85.50	89.40	93.39	99.37	101.32	104.22	107.83
24	87.92	91.91	96.00	102.27	104.17	107.30	111.10
25	89.97	94.43	98.61	105.17	107.02	110.39	114.38

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	38.24	41.33	47.26	43.70	45.13	46.55	42.28	40.80
2	41.71	46.22	52.25	46.69	49.07	52.01	46.60	45.13
3	45.17	51.11	57.24	49.69	53.01	57.48	50.92	49.45
4	48.64	56.00	62.23	52.68	56.95	62.94	55.24	53.77
5	52.11	60.90	67.21	55.67	60.90	68.40	59.57	58.09
6	54.63	64.08	71.82	58.38	64.55	73.86	63.22	61.37
7	57.14	67.26	76.43	61.09	68.21	79.33	66.88	64.65
8	59.66	70.44	81.04	63.79	71.87	84.79	70.54	67.93
9	62.18	73.63	85.64	66.50	75.53	90.25	74.20	71.20
10	64.70	76.81	90.25	69.21	79.18	95.71	77.85	74.48
11	66.93	79.99	94.86	71.82	83.03	101.46	81.61	77.66
12	69.16	83.17	99.47	74.43	86.88	107.21	85.36	80.85
13	71.39	86.36	104.07	77.05	90.73	112.96	89.11	84.03
14	73.63	89.54	108.68	79.66	94.57	118.70	92.86	87.21
15	75.86	92.72	113.29	82.27	98.42	124.45	96.62	90.39
16	78.09	95.90	117.90	84.88	102.27	130.20	100.37	93.48
17	80.32	99.09	122.50	87.50	106.12	135.95	104.12	96.57
18	82.56	102.27	127.11	90.11	109.96	141.69	107.87	99.66
19	84.79	105.45	131.72	92.72	113.81	147.44	111.63	102.74
20	87.02	108.63	136.33	95.33	117.66	153.19	115.38	105.83
21	89.25	111.82	140.93	97.95	121.51	158.94	119.13	108.92
22	91.49	115.00	145.54	100.56	125.35	164.68	122.88	112.01
23	93.72	118.18	150.15	103.17	129.20	170.43	126.64	115.09
24	95.95	121.36	154.76	105.78	133.05	176.18	130.39	118.18
25	98.18	124.55	159.36	108.40	136.90	181.93	134.14	121.27

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	46.08	47.98	47.50	40.14	46.55	42.70	40.38	39.90
2	50.49	52.20	50.78	43.70	50.97	46.22	43.75	43.46
3	54.91	56.43	54.06	47.26	55.39	49.73	47.12	47.03
4	59.33	60.66	57.33	50.83	59.80	53.25	50.49	50.59
5	63.75	64.89	60.61	54.39	64.22	56.76	53.87	54.15
6	68.64	68.07	63.51	57.38	67.59	60.28	57.05	56.76
7	73.53	71.25	66.41	60.37	70.97	63.79	60.23	59.38
8	78.42	74.43	69.30	63.37	74.34	67.31	63.41	61.99
9	83.32	77.62	72.20	66.36	77.71	70.82	66.60	64.60
10	88.21	80.80	75.10	69.35	81.08	74.34	69.78	67.21
11	93.01	83.79	78.00	71.87	84.46	78.19	71.73	69.64
12	97.80	86.78	80.89	74.39	87.83	82.03	73.67	72.06
13	102.60	89.78	83.79	76.90	91.20	85.88	75.62	74.48
14	107.40	92.77	86.69	79.42	94.57	89.73	77.57	76.90
15	112.20	95.76	89.59	81.94	97.95	93.58	79.52	79.33
16	116.99	98.75	92.48	84.46	101.13	97.42	81.46	81.75
17	121.79	101.75	95.38	86.97	104.31	101.27	83.41	84.17
18	126.59	104.74	98.28	89.49	107.49	105.12	85.36	86.59
19	131.39	107.73	101.18	92.01	110.68	108.97	87.31	89.02
20	136.18	110.72	104.07	94.53	113.86	112.81	89.25	91.44
21	140.98	113.72	106.97	97.04	117.04	116.66	91.20	93.86
22	145.78	116.71	109.87	99.56	120.22	120.51	93.15	96.28
23	150.58	119.70	112.77	102.08	123.41	124.36	95.10	98.71
24	155.37	122.69	115.66	104.60	126.59	128.20	97.04	101.13
25	160.17	125.69	118.56	107.11	129.77	132.05	98.99	103.55

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
26	92.01	96.95	101.22	107.97	109.87	113.48	117.66

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
27	94.05	99.47	103.84	110.77	112.72	116.57	120.94
28	96.09	101.98	106.45	113.57	115.57	119.65	124.21
29	98.14	104.50	109.06	116.38	118.42	122.74	127.49
30	100.18	107.02	111.67	119.18	121.27	125.83	130.77
31	102.22	109.54	114.29	121.98	124.12	128.92	134.05
32	104.26	112.05	116.90	124.78	126.97	132.00	137.32
33	106.31	114.57	119.51	127.59	129.82	135.09	140.60
34	108.35	117.09	122.12	130.39	132.67	138.18	143.88
35	110.39	119.61	124.74	133.19	135.52	141.27	147.16
36	112.43	122.12	127.35	135.99	138.37	144.35	150.43
37	114.48	124.64	129.96	138.80	141.22	147.44	153.71
38	116.52	127.16	132.57	141.60	144.07	150.53	156.99
39	118.56	129.68	135.19	144.40	146.92	153.62	160.27
40	120.60	132.19	137.80	147.20	149.77	156.70	163.54
41	122.65	134.71	140.41	150.01	152.62	159.79	166.82
42	124.69	137.23	143.02	152.81	155.47	162.88	170.10
43	126.73	139.75	145.64	155.61	158.32	165.97	173.38
44	128.77	142.26	148.25	158.41	161.17	169.05	176.65
45	130.82	144.78	150.86	161.22	164.02	172.14	179.93
46	132.86	147.30	153.47	164.02	166.87	175.23	183.21
47	134.90	149.82	156.09	166.82	169.72	178.32	186.49
48	136.94	152.33	158.70	169.62	172.57	181.40	189.76
49	138.99	154.85	161.31	172.43	175.42	184.49	193.04
50	141.03	157.37	163.92	175.23	178.27	187.58	196.32

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	100.42	127.73	163.97	111.01	140.74	187.67	137.89	124.36
27	102.65	130.91	168.58	113.62	144.59	193.42	141.65	127.44
28	104.88	134.09	173.19	116.23	148.44	199.17	145.40	130.53
29	107.11	137.28	177.79	118.85	152.29	204.92	149.15	133.62
30	109.35	140.46	182.40	121.46	156.13	210.66	152.90	136.71
31	111.58	143.64	187.01	124.07	159.98	216.41	156.66	139.79
32	113.81	146.82	191.62	126.68	163.83	222.16	160.41	142.88
33	116.04	150.01	196.22	129.30	167.68	227.91	164.16	145.97
34	118.28	153.19	200.83	131.91	171.52	233.65	167.91	149.06
35	120.51	156.37	205.44	134.52	175.37	239.40	171.67	152.14
36	122.74	159.55	210.05	137.13	179.22	245.15	175.42	155.23
37	124.97	162.74	214.65	139.75	183.07	250.90	179.17	158.32
38	127.21	165.92	219.26	142.36	186.91	256.64	182.92	161.41
39	129.44	169.10	223.87	144.97	190.76	262.39	186.68	164.49
40	131.67	172.28	228.48	147.58	194.61	268.14	190.43	167.58
41	133.90	175.47	233.08	150.20	198.46	273.89	194.18	170.67
42	136.14	178.65	237.69	152.81	202.30	279.63	197.93	173.76
43	138.37	181.83	242.30	155.42	206.15	285.38	201.69	176.84
44	140.60	185.01	246.91	158.03	210.00	291.13	205.44	179.93
45	142.83	188.20	251.51	160.65	213.85	296.88	209.19	183.02
46	145.07	191.38	256.12	163.26	217.69	302.62	212.94	186.11
47	147.30	194.56	260.73	165.87	221.54	308.37	216.70	189.19
48	149.53	197.74	265.34	168.48	225.39	314.12	220.45	192.28
49	151.76	200.93	269.94	171.10	229.24	319.87	224.20	195.37
50	154.00	204.11	274.55	173.71	233.08	325.61	227.95	198.46

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	164.97	128.68	121.46	109.63	132.95	135.90	100.94	105.97
27	169.77	131.67	124.36	112.15	136.14	139.75	102.89	108.40

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
28	174.56	134.66	127.25	114.67	139.32	143.59	104.83	110.82
29	179.36	137.66	130.15	117.18	142.50	147.44	106.78	113.24
30	184.16	140.65	133.05	119.70	145.68	151.29	108.73	115.66
31	188.96	143.64	135.95	122.22	148.87	155.14	110.68	118.09
32	193.75	146.63	138.84	124.74	152.05	158.98	112.62	120.51
33	198.55	149.63	141.74	127.25	155.23	162.83	114.57	122.93
34	203.35	152.62	144.64	129.77	158.41	166.68	116.52	125.35
35	208.15	155.61	147.54	132.29	161.60	170.53	118.47	127.78
36	212.94	158.60	150.43	134.81	164.78	174.37	120.41	130.20
37	217.74	161.60	153.33	137.32	167.96	178.22	122.36	132.62
38	222.54	164.59	156.23	139.84	171.14	182.07	124.31	135.04
39	227.34	167.58	159.13	142.36	174.33	185.92	126.26	137.47
40	232.13	170.57	162.02	144.88	177.51	189.76	128.20	139.89
41	236.93	173.57	164.92	147.39	180.69	193.61	130.15	142.31
42	241.73	176.56	167.82	149.91	183.87	197.46	132.10	144.73
43	246.53	179.55	170.72	152.43	187.06	201.31	134.05	147.16
44	251.32	182.54	173.61	154.95	190.24	205.15	135.99	149.58
45	256.12	185.54	176.51	157.46	193.42	209.00	137.94	152.00
46	260.92	188.53	179.41	159.98	196.60	212.85	139.89	154.42
47	265.72	191.52	182.31	162.50	199.79	216.70	141.84	156.85
48	270.51	194.51	185.20	165.02	202.97	220.54	143.78	159.27
49	275.31	197.51	188.10	167.53	206.15	224.39	145.73	161.69
50	280.11	200.50	191.00	170.05	209.33	228.24	147.68	164.11

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 &1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
51	143.07	159.89	166.54	177.84	181.12	190.67	199.60
52	145.11	162.40	169.15	180.45	183.97	193.75	202.87
53	147.16	164.92	171.76	183.07	186.82	196.84	206.15
54	149.20	167.44	174.37	185.68	189.67	199.93	209.43
55	151.24	169.96	176.99	188.29	192.52	203.02	212.71
56	153.28	172.47	179.60	190.90	195.37	206.10	215.98
57	155.33	174.99	182.21	193.52	198.22	209.19	219.26
58	157.37	177.51	184.82	196.13	201.07	212.28	222.54
59	159.41	180.03	187.44	198.74	203.92	215.37	225.82
60	161.45	182.54	190.05	201.35	206.77	218.45	229.09
61	163.50	185.06	192.66	203.97	209.62	221.54	232.37
62	165.54	187.58	195.27	206.58	212.47	224.63	235.65
63	167.58	190.10	197.89	209.19	215.32	227.72	238.93
64	169.62	192.61	200.50	211.80	218.17	230.80	242.20
65	171.67	195.13	203.11	214.42	221.02	233.89	245.48
66	173.71	197.65	205.72	217.03	223.87	236.98	248.76
67	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....
70	.....	.....	.....	.....	.....	.....	.....

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	156.23	207.29	279.16	176.32	236.93	331.36	231.71	201.54
52	158.46	210.47	283.77	178.93	240.78	337.11	235.46	204.63
53	160.69	213.66	288.37	181.55	244.63	342.86	239.21	207.72
54	162.93	216.84	292.98	184.16	248.47	348.60	242.96	210.81
55	165.16	220.02	297.59	186.77	252.32	354.35	246.72	213.89
56	167.39	223.20	302.20	189.38	256.17	360.10	250.47	216.98
57	169.62	226.39	306.80	192.00	260.02	365.85	254.22	220.07
58	171.86	229.57	311.41	194.61	263.86	371.59	257.97	223.16

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
59	174.09	232.75	316.02	197.22	267.71	377.34	261.73	226.24
60	176.32	235.93	320.63	199.83	271.56	383.09	265.48	229.33
61	178.55	239.12	325.23	202.45	275.41	388.84	269.23	232.42
62	180.79	242.30	329.84	205.06	279.25	394.58	272.98	235.51
63	183.02	245.48	334.45	207.67	283.10	400.33	276.74	238.59
64	185.25	248.66	339.06	210.28	286.95	406.08	280.49	241.68
65	187.48	251.85	343.66	212.90	290.80	411.83	284.24	244.77
66	189.72	255.03	348.27	215.51	294.64	417.57	287.99	247.86
67	191.95	258.21	352.88	218.12	298.49	423.32	291.75	250.94
68	194.18	261.39	357.49	220.73	302.34	429.07	295.50	254.03
69	196.41	264.58	362.09	223.35	306.19	434.82	299.25	257.12
70	198.65	267.76	366.70	225.96	310.03	440.56	303.00	260.21

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL BASE PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	284.91	203.49	193.90	172.57	212.52	232.09	149.63	166.54
52	289.70	206.48	196.79	175.09	215.70	235.93	151.57	168.96
53	294.50	209.48	199.69	177.60	218.88	239.78	153.52	171.38
54	299.30	212.47	202.59	180.12	222.06	243.63	155.47	173.80
55	304.10	215.46	205.49	182.64	225.25	247.48	157.42	176.23
56	308.89	218.45	208.38	185.16	228.43	251.32	159.36	178.65
57	313.69	221.45	211.28	187.67	231.61	255.17	161.31	181.07
58	318.49	224.44	214.18	190.19	234.79	259.02	163.26	183.49
59	323.29	227.43	217.08	192.71	237.98	262.87	165.21	185.92
60	328.08	230.42	219.97	195.23	241.16	266.71	167.15	188.34
61	332.88	233.42	222.87	197.74	244.34	270.56	169.10	190.76
62	337.68	236.41	225.77	200.26	247.52	274.41	171.05	193.18
63	342.48	239.40	228.67	202.78	250.71	278.26	173.00	195.61
64	347.27	242.39	231.56	205.30	253.89	282.10	174.94	198.03
65	352.07	245.39	234.46	207.81	257.07	285.95	176.89	200.45
66	356.87	248.38	237.36	210.33	260.25	289.80	178.84	202.87
67	.....	.....	.....	.....	.....	.....	180.79	.....
68	.....	.....	.....	.....	.....	.....	182.73	.....
69	.....	.....	.....	.....	.....	.....	184.68	.....
70	.....	.....	.....	.....	.....	.....	186.63	.....

Notes

[1] The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
1	31.35	32.30	34.58	35.63	37.00	37.53	38.00
2	33.87	34.96	37.29	38.52	39.95	40.42	40.99
3	36.39	37.62	40.00	41.42	42.89	43.32	43.99
4	38.90	40.28	42.70	44.32	45.84	46.22	46.98
5	41.42	42.94	45.41	47.22	48.78	49.12	49.97
6	43.94	45.55	48.21	50.11	51.63	52.11	53.06
7	46.46	48.17	51.02	53.01	54.48	55.10	56.15
8	48.97	50.78	53.82	55.91	57.33	58.09	59.23
9	51.49	53.39	56.62	58.81	60.18	61.09	62.32
10	54.01	56.00	59.42	61.70	63.03	64.08	65.41
11	56.43	58.62	62.04	64.60	65.98	67.17	68.50
12	58.85	61.23	64.65	67.50	68.92	70.25	71.77
13	61.28	63.84	67.26	70.40	71.87	73.34	75.05
14	63.70	66.45	69.87	73.29	74.81	76.43	78.33
15	66.12	69.07	72.49	76.19	77.76	79.52	81.61
16	68.54	71.68	75.10	79.09	80.70	82.60	84.88

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
17	70.97	74.29	77.71	81.99	83.65	85.69	88.16
18	73.39	76.81	80.32	84.88	86.59	88.78	91.44
19	75.81	79.33	82.94	87.78	89.54	91.87	94.72
20	78.23	81.84	85.55	90.68	92.48	94.95	97.99
21	80.66	84.36	88.16	93.58	95.43	98.04	101.27
22	83.08	86.88	90.77	96.47	98.37	101.13	104.55
23	85.50	89.40	93.39	99.37	101.32	104.22	107.83
24	87.92	91.91	96.00	102.27	104.17	107.30	111.10
25	89.97	94.43	98.61	105.17	107.02	110.39	114.38

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	38.24	41.33	47.26	43.70	45.13	46.55	42.28	40.80
2	41.71	46.22	52.25	46.69	49.07	52.01	46.60	45.13
3	45.17	51.11	57.24	49.69	53.01	57.48	50.92	49.45
4	48.64	56.00	62.23	52.68	56.95	62.94	55.24	53.77
5	52.11	60.90	67.21	55.67	60.90	68.40	59.57	58.09
6	54.63	64.08	71.82	58.38	64.55	73.86	63.22	61.37
7	57.14	67.26	76.43	61.09	68.21	79.33	66.88	64.65
8	59.66	70.44	81.04	63.79	71.87	84.79	70.54	67.93
9	62.18	73.63	85.64	66.50	75.53	90.25	74.20	71.20
10	64.70	76.81	90.25	69.21	79.18	95.71	77.85	74.48
11	66.93	79.99	94.86	71.82	83.03	101.46	81.61	77.66
12	69.16	83.17	99.47	74.43	86.88	107.21	85.36	80.85
13	71.39	86.36	104.07	77.05	90.73	112.96	89.11	84.03
14	73.63	89.54	108.68	79.66	94.57	118.70	92.86	87.21
15	75.86	92.72	113.29	82.27	98.42	124.45	96.62	90.39
16	78.09	95.90	117.90	84.88	102.27	130.20	100.37	93.48
17	80.32	99.09	122.50	87.50	106.12	135.95	104.12	96.57
18	82.56	102.27	127.11	90.11	109.96	141.69	107.87	99.66
19	84.79	105.45	131.72	92.72	113.81	147.44	111.63	102.74
20	87.02	108.63	136.33	95.33	117.66	153.19	115.38	105.83
21	89.25	111.82	140.93	97.95	121.51	158.94	119.13	108.92
22	91.49	115.00	145.54	100.56	125.35	164.68	122.88	112.01
23	93.72	118.18	150.15	103.17	129.20	170.43	126.64	115.09
24	95.95	121.36	154.76	105.78	133.05	176.18	130.39	118.18
25	98.18	124.55	159.36	108.40	136.90	181.93	134.14	121.27

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
1	46.08	47.98	47.50	40.14	46.55	42.70	40.38	39.90
2	50.49	52.20	50.78	43.70	50.97	46.22	43.75	43.46
3	54.91	56.43	54.06	47.26	55.39	49.73	47.12	47.03
4	59.33	60.66	57.33	50.83	59.80	53.25	50.49	50.59
5	63.75	64.89	60.61	54.39	64.22	56.76	53.87	54.15
6	68.64	68.07	63.51	57.38	67.59	60.28	57.05	56.76
7	73.53	71.25	66.41	60.37	70.97	63.79	60.23	59.38
8	78.42	74.43	69.30	63.37	74.34	67.31	63.41	61.99
9	83.32	77.62	72.20	66.36	77.71	70.82	66.60	64.60
10	88.21	80.80	75.10	69.35	81.08	74.34	69.78	67.21
11	93.01	83.79	78.00	71.87	84.46	78.19	71.73	69.64
12	97.80	86.78	80.89	74.39	87.83	82.03	73.67	72.06
13	102.60	89.78	83.79	76.90	91.20	85.88	75.62	74.48
14	107.40	92.77	86.69	79.42	94.57	89.73	77.57	76.90
15	112.20	95.76	89.59	81.94	97.95	93.58	79.52	79.33
16	116.99	98.75	92.48	84.46	101.13	97.42	81.46	81.75
17	121.79	101.75	95.38	86.97	104.31	101.27	83.41	84.17

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
18	126.59	104.74	98.28	89.49	107.49	105.12	85.36	86.59
19	131.39	107.73	101.18	92.01	110.68	108.97	87.31	89.02
20	136.18	110.72	104.07	94.53	113.86	112.81	89.25	91.44
21	140.98	113.72	106.97	97.04	117.04	116.66	91.20	93.86
22	145.78	116.71	109.87	99.56	120.22	120.51	93.15	96.28
23	150.58	119.70	112.77	102.08	123.41	124.36	95.10	98.71
24	155.37	122.69	115.66	104.60	126.59	128.20	97.04	101.13
25	160.17	125.69	118.56	107.11	129.77	132.05	98.99	103.55

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
26	92.01	96.95	101.22	107.97	109.87	113.48	117.66
27	94.05	99.47	103.84	110.77	112.72	116.57	120.94
28	96.09	101.98	106.45	113.57	115.57	119.65	124.21
29	98.14	104.50	109.06	116.38	118.42	122.74	127.49
30	100.18	107.02	111.67	119.18	121.27	125.83	130.77
31	102.22	109.54	114.29	121.98	124.12	128.92	134.05
32	104.26	112.05	116.90	124.78	126.97	132.00	137.32
33	106.31	114.57	119.51	127.59	129.82	135.09	140.60
34	108.35	117.09	122.12	130.39	132.67	138.18	143.88
35	110.39	119.61	124.74	133.19	135.52	141.27	147.16
36	112.43	122.12	127.35	135.99	138.37	144.35	150.43
37	114.48	124.64	129.96	138.80	141.22	147.44	153.71
38	116.52	127.16	132.57	141.60	144.07	150.53	156.99
39	118.56	129.68	135.19	144.40	146.92	153.62	160.27
40	120.60	132.19	137.80	147.20	149.77	156.70	163.54
41	122.65	134.71	140.41	150.01	152.62	159.79	166.82
42	124.69	137.23	143.02	152.81	155.47	162.88	170.10
43	126.73	139.75	145.64	155.61	158.32	165.97	173.38
44	128.77	142.26	148.25	158.41	161.17	169.05	176.65
45	130.82	144.78	150.86	161.22	164.02	172.14	179.93
46	132.86	147.30	153.47	164.02	166.87	175.23	183.21
47	134.90	149.82	156.09	166.82	169.72	178.32	186.49
48	136.94	152.33	158.70	169.62	172.57	181.40	189.76
49	138.99	154.85	161.31	172.43	175.42	184.49	193.04
50	141.03	157.37	163.92	175.23	178.27	187.58	196.32

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
26	100.42	127.73	163.97	111.01	140.74	187.67	137.89	124.36
27	102.65	130.91	168.58	113.62	144.59	193.42	141.65	127.44
28	104.88	134.09	173.19	116.23	148.44	199.17	145.40	130.53
29	107.11	137.28	177.79	118.85	152.29	204.92	149.15	133.62
30	109.35	140.46	182.40	121.46	156.13	210.66	152.90	136.71
31	111.58	143.64	187.01	124.07	159.98	216.41	156.66	139.79
32	113.81	146.82	191.62	126.68	163.83	222.16	160.41	142.88
33	116.04	150.01	196.22	129.30	167.68	227.91	164.16	145.97
34	118.28	153.19	200.83	131.91	171.52	233.65	167.91	149.06
35	120.51	156.37	205.44	134.52	175.37	239.40	171.67	152.14
36	122.74	159.55	210.05	137.13	179.22	245.15	175.42	155.23
37	124.97	162.74	214.65	139.75	183.07	250.90	179.17	158.32
38	127.21	165.92	219.26	142.36	186.91	256.64	182.92	161.41
39	129.44	169.10	223.87	144.97	190.76	262.39	186.68	164.49
40	131.67	172.28	228.48	147.58	194.61	268.14	190.43	167.58
41	133.90	175.47	233.08	150.20	198.46	273.89	194.18	170.67
42	136.14	178.65	237.69	152.81	202.30	279.63	197.93	173.76
43	138.37	181.83	242.30	155.42	206.15	285.38	201.69	176.84

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
44	140.60	185.01	246.91	158.03	210.00	291.13	205.44	179.93
45	142.83	188.20	251.51	160.65	213.85	296.88	209.19	183.02
46	145.07	191.38	256.12	163.26	217.69	302.62	212.94	186.11
47	147.30	194.56	260.73	165.87	221.54	308.37	216.70	189.19
48	149.53	197.74	265.34	168.48	225.39	314.12	220.45	192.28
49	151.76	200.93	269.94	171.10	229.24	319.87	224.20	195.37
50	154.00	204.11	274.55	173.71	233.08	325.61	227.95	198.46

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
26	164.97	128.68	121.46	109.63	132.95	135.90	100.94	105.97
27	169.77	131.67	124.36	112.15	136.14	139.75	102.89	108.40
28	174.56	134.66	127.25	114.67	139.32	143.59	104.83	110.82
29	179.36	137.66	130.15	117.18	142.50	147.44	106.78	113.24
30	184.16	140.65	133.05	119.70	145.68	151.29	108.73	115.66
31	188.96	143.64	135.95	122.22	148.87	155.14	110.68	118.09
32	193.75	146.63	138.84	124.74	152.05	158.98	112.62	120.51
33	198.55	149.63	141.74	127.25	155.23	162.83	114.57	122.93
34	203.35	152.62	144.64	129.77	158.41	166.68	116.52	125.35
35	208.15	155.61	147.54	132.29	161.60	170.53	118.47	127.78
36	212.94	158.60	150.43	134.81	164.78	174.37	120.41	130.20
37	217.74	161.60	153.33	137.32	167.96	178.22	122.36	132.62
38	222.54	164.59	156.23	139.84	171.14	182.07	124.31	135.04
39	227.34	167.58	159.13	142.36	174.33	185.92	126.26	137.47
40	232.13	170.57	162.02	144.88	177.51	189.76	128.20	139.89
41	236.93	173.57	164.92	147.39	180.69	193.61	130.15	142.31
42	241.73	176.56	167.82	149.91	183.87	197.46	132.10	144.73
43	246.53	179.55	170.72	152.43	187.06	201.31	134.05	147.16
44	251.32	182.54	173.61	154.95	190.24	205.15	135.99	149.58
45	256.12	185.54	176.51	157.46	193.42	209.00	137.94	152.00
46	260.92	188.53	179.41	159.98	196.60	212.85	139.89	154.42
47	265.72	191.52	182.31	162.50	199.79	216.70	141.84	156.85
48	270.51	194.51	185.20	165.02	202.97	220.54	143.78	159.27
49	275.31	197.51	188.10	167.53	206.15	224.39	145.73	161.69
50	280.11	200.50	191.00	170.05	209.33	228.24	147.68	164.11

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
51	143.07	159.89	166.54	177.84	181.12	190.67	199.60
52	145.11	162.40	169.15	180.45	183.97	193.75	202.87
53	147.16	164.92	171.76	183.07	186.82	196.84	206.15
54	149.20	167.44	174.37	185.68	189.67	199.93	209.43
55	151.24	169.96	176.99	188.29	192.52	203.02	212.71
56	153.28	172.47	179.60	190.90	195.37	206.10	215.98
57	155.33	174.99	182.21	193.52	198.22	209.19	219.26
58	157.37	177.51	184.82	196.13	201.07	212.28	222.54
59	159.41	180.03	187.44	198.74	203.92	215.37	225.82
60	161.45	182.54	190.05	201.35	206.77	218.45	229.09
61	163.50	185.06	192.66	203.97	209.62	221.54	232.37
62	165.54	187.58	195.27	206.58	212.47	224.63	235.65
63	167.58	190.10	197.89	209.19	215.32	227.72	238.93
64	169.62	192.61	200.50	211.80	218.17	230.80	242.20
65	171.67	195.13	203.11	214.42	221.02	233.89	245.48
66	173.71	197.65	205.72	217.03	223.87	236.98	248.76
67	.....	.....	.....	.....	.....	.....	.....
68	.....	.....	.....	.....	.....	.....	.....
69	.....	.....	.....	.....	.....	.....	.....

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)—Continued

Maximum weight (pounds)	Country price group [1]						
	Origin zone 1.1 & 1.2 ($)	Origin zone 1.3 ($)	Origin zone 1.4 ($)	Origin zone 1.5 ($)	Origin zone 1.6 ($)	Origin zone 1.7 ($)	Origin zone 1.8 ($)
70	.....	.....	.....	.....	.....	.....	.....

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
51	156.23	207.29	279.16	176.32	236.93	331.36	231.71	201.54
52	158.46	210.47	283.77	178.93	240.78	337.11	235.46	204.63
53	160.69	213.66	288.37	181.55	244.63	342.86	239.21	207.72
54	162.93	216.84	292.98	184.16	248.47	348.60	242.96	210.81
55	165.16	220.02	297.59	186.77	252.32	354.35	246.72	213.89
56	167.39	223.20	302.20	189.38	256.17	360.10	250.47	216.98
57	169.62	226.39	306.80	192.00	260.02	365.85	254.22	220.07
58	171.86	229.57	311.41	194.61	263.86	371.59	257.97	223.16
59	174.09	232.75	316.02	197.22	267.71	377.34	261.73	226.24
60	176.32	235.93	320.63	199.83	271.56	383.09	265.48	229.33
61	178.55	239.12	325.23	202.45	275.41	388.84	269.23	232.42
62	180.79	242.30	329.84	205.06	279.25	394.58	272.98	235.51
63	183.02	245.48	334.45	207.67	283.10	400.33	276.74	238.59
64	185.25	248.66	339.06	210.28	286.95	406.08	280.49	241.68
65	187.48	251.85	343.66	212.90	290.80	411.83	284.24	244.77
66	189.72	255.03	348.27	215.51	294.64	417.57	287.99	247.86
67	191.95	258.21	352.88	218.12	298.49	423.32	291.75	250.94
68	194.18	261.39	357.49	220.73	302.34	429.07	295.50	254.03
69	196.41	264.58	362.09	223.35	306.19	434.82	299.25	257.12
70	198.65	267.76	366.70	225.96	310.03	440.56	303.00	260.21

PRIORITY MAIL INTERNATIONAL PARCELS COMMERCIAL PLUS PRICES (CONTINUED)

Maximum weight (pounds)	Country price group							
	10 ($)	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)
51	284.91	203.49	193.90	172.57	212.52	232.09	149.63	166.54
52	289.70	206.48	196.79	175.09	215.70	235.93	151.57	168.96
53	294.50	209.48	199.69	177.60	218.88	239.78	153.52	171.38
54	299.30	212.47	202.59	180.12	222.06	243.63	155.47	173.80
55	304.10	215.46	205.49	182.64	225.25	247.48	157.42	176.23
56	308.89	218.45	208.38	185.16	228.43	251.32	159.36	178.65
57	313.69	221.45	211.28	187.67	231.61	255.17	161.31	181.07
58	318.49	224.44	214.18	190.19	234.79	259.02	163.26	183.49
59	323.29	227.43	217.08	192.71	237.98	262.87	165.21	185.92
60	328.08	230.42	219.97	195.23	241.16	266.71	167.15	188.34
61	332.88	233.42	222.87	197.74	244.34	270.56	169.10	190.76
62	337.68	236.41	225.77	200.26	247.52	274.41	171.05	193.18
63	342.48	239.40	228.67	202.78	250.71	278.26	173.00	195.61
64	347.27	242.39	231.56	205.30	253.89	282.10	174.94	198.03
65	352.07	245.39	234.46	207.81	257.07	285.95	176.89	200.45
66	356.87	248.38	237.36	210.33	260.25	289.80	178.84	202.87
67	.....	.....	.....	.....	.....	.....	180.79	.....
68	.....	.....	.....	.....	.....	.....	182.73	.....
69	.....	.....	.....	.....	.....	.....	184.68	.....
70	.....	.....	.....	.....	.....	.....	186.63	.....

Notes

1. The applicable Origin Zone for pieces destined to Canada is based on the applicable zone from the origin point to the serving International Service Center (ISC). In future releases, distance to and within Canada could be considered for application of the appropriate Origin Zone group.

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop

International Service Center (ISC) Zone Chart

The International Service Center (ISC) Zone Chart identifies the appropriate distance code assigned to each origin.

	Annual fee ($)
Zone Chart concerning appropriate International Service Center and partner Induction Facility from every ZIP Code in the nation (per year)	68.00

2320 International Priority Airmail (IPA)

* * *

2320.6 Prices

International Priority Airmail Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.62	0.20	0.60	0.61	0.60	0.59	0.63	0.56	0.51	0.23
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.60	0.25

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.22	0.55	0.51	0.20	0.56	0.23	0.23	0.22	0.18
Mixed Country Containers	0.23	0.57	0.55	0.21	0.60	0.25	0.25	0.23	0.20

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.84	9.20	9.46	9.86	9.62	10.38	9.86	10.03	10.52	11.62
Direct Country Containers (ISC Drop Shipment)	5.31	5.75	7.02	7.43	7.21	7.77	7.37	7.25	7.88	7.67
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	8.26	8.04

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	10.28	9.99	10.11	10.80	10.07	10.43	11.67	10.33	11.45
Direct Country Containers (ISC Drop Shipment)	7.82	7.32	7.37	8.35	7.28	7.78	7.71	7.86	9.01
Mixed Country Containers (ISC Drop Shipment)	8.16	7.70	7.79	8.76	7.81	7.85	8.08	8.19	9.48

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.66

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	13.38
Worldwide Nonpresorted Containers (ISC Drop Shipment)	10.54

International Priority Airmail Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.62	0.20	0.60	0.61	0.60	0.59	0.63	0.56	0.51	0.23
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.60	0.25

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.22	0.55	0.51	0.20	0.56	0.23	0.23	0.22	0.18
Mixed Country Containers	0.23	0.57	0.55	0.21	0.60	0.25	0.25	0.23	0.20

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	6.69	7.86	8.08	8.46	8.25	8.89	8.45	8.57	8.99	9.93
Direct Country Containers (ISC Drop Shipment)	4.56	4.93	6.02	6.38	6.17	6.66	6.31	6.18	6.73	6.56
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	7.05	6.90

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	8.80	8.53	8.64	9.24	10.07	10.43	11.67	10.33	11.45
Direct Country Containers (ISC Drop Shipment)	6.70	6.28	6.31	7.15	7.28	7.78	7.71	7.86	9.01
Mixed Country Containers (ISC Drop Shipment)	6.98	6.59	6.68	7.48	7.81	7.85	8.08	8.19	9.48

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.66

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	13.38
Worldwide Nonpresorted Containers (ISC Drop Shipment)	10.54

International Priority Airmail Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific Country Price Group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.62	0.20	0.60	0.61	0.60	0.59	0.64	0.56	0.51	0.23
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.60	0.25

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.22	0.55	0.51	0.20	0.56	0.23	0.23	0.22	0.18
Mixed Country Containers	0.23	0.57	0.55	0.21	0.60	0.25	0.25	0.23	0.20

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	6.39	7.51	7.72	8.04	7.86	8.49	8.04	8.18	8.59	9.47
Direct Country Containers (ISC Drop Shipment)	4.34	4.71	5.73	6.07	5.89	6.35	6.01	5.91	6.42	6.25
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	6.75	6.55

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	8.38	8.15	8.25	8.81	10.07	10.43	11.67	10.33	11.45
Direct Country Containers (ISC Drop Shipment)	6.39	5.99	6.01	6.81	7.28	7.78	7.71	7.86	9.01
Mixed Country Containers (ISC Drop Shipment)	6.67	6.26	6.37	7.13	7.81	7.85	8.08	8.19	9.48

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.66

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	13.38
Worldwide Nonpresorted Containers (ISC Drop Shipment)	10.54

International Priority Airmail M-Bag

The price to be paid is the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific Country Price Group.

a. International Priority Airmail M-Bag (Full Service)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
11	62.70	70.84	83.05	83.05	83.05	104.39	83.05	83.05	99.44	91.19
For each additional pound or fraction thereof	5.70	6.44	7.55	7.55	7.55	9.49	7.55	7.55	9.04	8.29

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	101.53	86.02	83.05	101.20	83.05	94.05	91.19	101.53	99.99
For each additional pound or fraction thereof	9.23	7.82	7.55	9.20	7.55	8.55	8.29	9.23	9.09

b. International Priority Airmail M-Bag (ISC Drop Shipment)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	24.57	30.39	38.16	38.16	38.16	55.60	38.16	38.16	50.89	48.21
6	25.00	31.25	39.41	39.41	39.41	57.67	39.41	39.41	52.75	49.14
7	25.43	32.11	40.66	40.66	40.66	59.74	40.66	40.66	54.61	50.07
8	25.86	32.97	41.91	41.91	41.91	61.81	41.91	41.91	56.47	51.00
9	26.29	33.83	43.16	43.16	43.16	63.88	43.16	43.16	58.33	51.93
10	26.72	34.69	44.41	44.41	44.41	65.95	44.41	44.41	60.19	52.86
11	27.15	35.55	45.66	45.66	45.66	68.02	45.66	45.66	62.05	53.79
For each additional pound or fraction thereof	2.48	3.23	4.16	4.16	4.16	6.18	4.16	4.16	5.64	4.89

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	55.26	41.32	38.16	55.51	38.16	48.31	48.21	55.26	53.50
6	56.74	42.54	39.41	56.86	39.41	49.67	49.14	56.74	55.03
7	58.22	43.76	40.66	58.21	40.66	51.03	50.07	58.22	56.56
8	59.70	44.98	41.91	59.56	41.91	52.39	51.00	59.70	58.09
9	61.18	46.20	43.16	60.91	43.16	53.75	51.93	61.18	59.62
10	62.66	47.42	44.41	62.26	44.41	55.11	52.86	62.66	61.15
11	64.14	48.64	45.66	63.61	45.66	56.47	53.79	64.14	62.68
For each additional pound or fraction thereof	5.82	4.42	4.16	5.79	4.16	5.14	4.89	5.82	5.70

2325 International Surface Air Lift (ISAL)

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2325.6 Prices

International Surface Air Lift Letters and Postcards

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.57	0.18	0.54	0.57	0.57	0.54	0.58	0.52	0.46	0.22
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.56	0.23

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.20	0.47	0.52	0.18	0.52	0.22	0.22	0.20	0.17
Mixed Country Containers	0.21	0.48	0.56	0.20	0.56	0.23	0.23	0.21	0.18

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	7.64	8.80	8.57	9.16	8.99	9.71	9.16	9.00	9.67	10.96
Direct Country Containers (ISC Drop Shipment)	5.16	5.52	6.39	6.89	6.73	7.26	6.82	6.50	7.23	7.24
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	7.34	7.60

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	9.28	9.17	9.00	9.99	9.06	9.72	10.83	9.32	10.63
Direct Country Containers (ISC Drop Shipment)	7.07	6.71	6.50	7.75	6.53	7.23	7.14	7.10	8.37
Mixed Country Containers (ISC Drop Shipment)	7.32	7.06	7.22	7.95	7.25	7.29	7.50	7.35	8.52

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.61

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.33
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.72

International Surface Air Lift Large Envelopes (Flats)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.57	0.19	0.54	0.57	0.57	0.54	0.58	0.52	0.47	0.22
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.56	0.23

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.20	0.48	0.52	0.18	0.52	0.22	0.22	0.20	0.17
Mixed Country Containers	0.21	0.49	0.56	0.20	0.56	0.23	0.23	0.21	0.18

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	6.51	7.56	7.34	7.84	7.69	8.30	7.84	7.70	8.28	9.38
Direct Country Containers (ISC Drop Shipment)	4.42	4.73	5.45	5.90	5.76	6.22	5.85	5.57	6.17	6.20
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	6.28	6.51

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	7.95	7.82	7.70	8.54	9.06	9.72	10.83	9.32	10.63
Direct Country Containers (ISC Drop Shipment)	6.06	5.74	5.57	6.63	6.53	7.23	7.14	7.10	8.37
Mixed Country Containers (ISC Drop Shipment)	6.26	6.03	6.17	6.79	7.25	7.29	7.50	7.35	8.52

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.61

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.33
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.72

International Surface Air Lift Packages (Small Packets and Rolls)

The price to be paid is the applicable per-piece price plus the applicable per-pound price. The per-piece price applies to each mailpiece regardless of weight. The per-pound price applies to the net weight (gross weight of the container minus the tare weight of the container) of the mail for the specific price group.

a. Presort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers	0.57	0.18	0.54	0.57	0.57	0.54	0.58	0.52	0.47	0.22
Mixed Country Containers	.....	.....	.....	.....	.....	.....	.....	.....	0.56	0.23

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers	0.20	0.48	0.52	0.18	0.52	0.22	0.22	0.20	0.17
Mixed Country Containers	0.21	0.49	0.56	0.20	0.56	0.23	0.23	0.21	0.18

ii. Per Pound

	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
Direct Country Containers (Full Service)	6.22	7.18	7.00	7.47	7.33	7.91	7.47	7.34	7.87	8.96
Direct Country Containers (ISC Drop Shipment)	4.21	4.51	5.18	5.61	5.49	5.93	5.57	5.31	5.89	5.91
Mixed Country Containers (ISC Drop Shipment)	.....	.....	.....	.....	.....	.....	.....	.....	5.99	6.21

	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
Direct Country Containers (Full Service)	7.59	7.49	7.34	8.16	9.06	9.72	10.83	9.32	10.63
Direct Country Containers (ISC Drop Shipment)	5.79	5.47	5.31	6.35	6.53	7.23	7.14	7.10	8.37
Mixed Country Containers (ISC Drop Shipment)	5.99	5.76	5.88	6.49	7.25	7.29	7.50	7.35	8.52

b. Worldwide Nonpresort Mail (Full Service and ISC Drop Shipment)

i. Per Piece

	($)
Worldwide Nonpresorted Containers	0.61

ii. Per Pound

	($)
Worldwide Nonpresorted Containers (Full Service)	12.33
Worldwide Nonpresorted Containers (ISC Drop Shipment)	9.72

International Surface Air Lift M-Bags

The price to be paid is applicable per-pound price. The per-pound price applies to the total weight of the sack (M-bag) for the specific price group.

a. International Surface Air Lift M-Bag (Full Service)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
11	21.78	23.32	27.28	27.28	27.28	37.95	27.28	27.72	35.53	31.90
For each additional pound or fraction thereof	1.98	2.12	2.48	2.48	2.48	3.45	2.48	2.52	3.23	2.90

Maximum Weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
11	35.53	28.60	27.72	37.40	27.72	31.90	31.90	35.53	44.44
For each additional pound or fraction thereof	3.23	2.60	2.52	3.40	2.52	2.90	2.90	3.23	4.04

b. International Surface Air Lift M-Bag (ISC Drop Shipment)

Maximum weight (pounds)	Price group									
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)	10 ($)
5	20.09	18.47	14.42	14.42	14.42	20.43	14.42	14.66	19.78	18.63
6	20.23	19.10	16.07	16.07	16.07	23.18	16.07	16.36	21.96	20.37
7	20.37	19.73	17.72	17.72	17.72	25.93	17.72	18.06	24.14	22.11
8	20.51	20.36	19.37	19.37	19.37	28.68	19.37	19.76	26.32	23.85
9	20.65	20.99	21.02	21.02	21.02	31.43	21.02	21.46	28.50	25.59
10	20.79	21.62	22.67	22.67	22.67	34.18	22.67	23.16	30.68	27.33
11	20.93	22.25	24.32	24.32	24.32	36.93	24.32	24.86	32.86	29.07
For each additional pound or fraction thereof	1.90	2.02	2.21	2.21	2.21	3.36	2.21	2.25	2.99	2.65

Maximum weight (pounds)	Price group								
	11 ($)	12 ($)	13 ($)	14 ($)	15 ($)	16 ($)	17 ($)	18 ($)	19 ($)
5	15.68	15.44	14.66	16.42	14.66	16.85	18.63	15.68	21.13
6	18.49	17.16	16.36	19.44	16.36	18.89	20.37	18.49	24.55
7	21.30	18.88	18.06	22.46	18.06	20.93	22.11	21.30	27.97
8	24.11	20.60	19.76	25.48	19.76	22.97	23.85	24.11	31.39
9	26.92	22.32	21.46	28.50	21.46	25.01	25.59	26.92	34.81
10	29.73	24.04	23.16	31.52	23.16	27.05	27.33	29.73	38.23
11	32.54	25.76	24.86	34.54	24.86	29.09	29.07	32.54	41.65
For each additional pound or fraction thereof	2.97	2.34	2.25	3.14	2.25	2.65	2.65	2.97	3.79

2330 International Direct Sacks—Airmail M-Bags

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2330.6 Prices

Outbound International Direct Sacks—Airmail M-Bags

The price is based on the applicable per-pound price. The per-pound price applies to the total weight of the sack (M-Bag) for the specific price group.

Maximum weight (pounds)	Price Group [1]								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
11	48.40	44.00	86.35	68.75	57.20	82.50	70.40	69.30	66.00
For each additional pound or fraction thereof	4.40	4.00	7.85	6.25	5.20	7.50	6.40	6.30	6.00

Notes

1. Same as Price Groups 1–9 for Single-Piece First-Class Mail International (SPFCMI).

Inbound International Direct Sacks—M-Bags

Payment is made in accordance with Part III of the Universal Postal Convention and associated UPU Letter Post Regulations. This information is available in the Letter Post Manual at *www.upu.int.*

2335 Outbound Single-Piece First-Class Package International Service

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2335.6 Prices

Outbound Single-Piece First-Class Package International Service Retail Prices

Maximum weight (pounds)	Price Group [1]								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
2	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
3	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
4	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
5	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
6	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
7	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
8	10.00	12.25	14.25	13.75	14.00	13.75	13.75	13.50	14.00
12	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
16	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
20	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
24	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
28	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
32	16.00	21.50	23.50	23.00	23.50	23.25	23.25	22.75	23.50
36	25.25	33.00	35.00	36.75	35.75	34.50	34.75	32.25	34.75
40	25.25	33.00	35.00	36.75	35.75	34.50	34.75	32.25	34.75
44	25.25	33.00	35.00	36.75	35.75	34.50	34.75	32.25	34.75
48	25.25	33.00	35.00	36.75	35.75	34.50	34.75	32.25	34.75
52	37.25	47.50	52.75	59.50	51.50	55.50	59.50	53.00	51.50
56	37.25	47.50	52.75	59.50	51.50	55.50	59.50	53.00	51.50
60	37.25	47.50	52.75	59.50	51.50	55.50	59.50	53.00	51.50
64	37.25	47.50	52.75	59.50	51.50	55.50	59.50	53.00	51.50

Outbound Single-Piece First-Class Package International Service Commercial Base Prices

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
2	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
3	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
4	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
5	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
6	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
7	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
8	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
12	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
16	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
20	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
24	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
28	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
32	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
36	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
40	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
44	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
48	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
52	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
56	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
60	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
64	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93

Outbound Single-Piece First-Class Package International Service Commercial Plus Prices

Maximum weight (ounces)	Country price group								
	1 ($)	2 ($)	3 ($)	4 ($)	5 ($)	6 ($)	7 ($)	8 ($)	9 ($)
1	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
2	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
3	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
4	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
5	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
6	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
7	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
8	9.50	11.64	13.54	13.06	13.30	13.06	13.06	12.83	13.30
12	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
16	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
20	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
24	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
28	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
32	15.20	20.43	22.33	21.85	22.33	22.09	22.09	21.61	22.33
36	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
40	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
44	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
48	23.99	31.35	33.25	34.91	33.96	32.78	33.01	30.64	33.01
52	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
56	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
60	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93
64	35.39	45.13	50.11	56.53	48.93	52.73	56.53	50.35	48.93

Fee for Return of Undeliverable as Addressed Outbound U.S. Origin Mail Posted Through a Foreign Postal Administration or Operator

A fee is charged for the return of an undeliverable-as-addressed Outbound Single-Piece First-Class Mail International item bearing a U.S. return address which was originally posted to an international addressee through a foreign postal administration, consolidator, or operator. The fee for each returned item is equal to the First-Class Mail International postage which would have been charged if the item had been posted through the Postal Service as First-Class Mail International. The fee is charged to the return addressee.

Pickup On Demand Service

Add $22.00 for each Pickup On Demand stop.

2600 Special Services

* * *

2605 Address Enhancement Services

* * *

2605.2 Prices

	($)
AEC	
Per record processed	0.25
Minimum charge per list	25.00
AMS API Address Matching System Application Program Interface (per year, per platform) [1]	
Developer's Kit, one platform	5400.00
Each Additional, per platform	1900.00

	($)
Resell License, one platform	23750.00
Each Additional, per platform	11950.00
Additional Database License	
Number of Additional Licenses	
1–100	2850.00
101–200	5800.00
201–300	8700.00
301–400	11600.00
401–500	14600.00
501–600	17550.00
601–700	20300.00
701–800	23400.00
801–900	26500.00
901–1,000	29150.00
1,001–10,000	37750.00
10,001–20,000	46400.00
20,001–30,000	55550.00
30,001–40,000	64250.00
RDI API Developer's Kit [1]	
Each, per platform	435.00
Resell License, one platform	1650.00
Each Additional, per platform	930.00

Notes

1. Above API License Fees prorated during the first year based on the date of the license agreement.

2610 Greeting Cards, Gift Cards, and Stationery 2610.2 Prices [1]

* * *

	($)
Greeting Cards	0.99 to 25.00
Gift Cards	
Open Loop	Face Value plus 1.99 to 8.99
Closed Loop	Face Value
Stationery	0.10 to 75.99

Notes

1. Minimum price applies to average price paid per item when multiple items are purchased together.

2615 International Ancillary Services 2615.1.2 Prices

2615.1 International Certificate of Mailing

* * *

INDIVIDUAL PIECES PRICES

	($)
Original certificate of mailing for listed pieces of ordinary Outbound Single-Piece First-Class Package International Service	1.40
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.49
Each additional copy of original certificate of mailing or firm mailing bills (each copy)	1.40

MULTIPLE PIECES PRICES

	($)
Up to 1,000 identical-weight pieces (one certificate for total number)	8.25
Each additional 1,000 identical-weight pieces or fraction thereof	1.03
Duplicate copy	1.40

2615.2 Outbound Competitive International Registered Mail

* * *

2615.2.2 Prices

	($)
Per Piece	15.50

2615.3 Outbound International Return Receipt

* * *

2615.3.2 Prices

Outbound International Return Receipt

	($)
Per Piece	4.00

Inbound International Return Receipt

No additional payment.

2615.5 Outbound International Insurance

* * *

2615.5.3 Prices

Outbound International Insurance

a. Priority Mail International Insurance and Priority Mail Express International Merchandise Insurance

Indemnity limit not over ($)	Price ($)
200 [1]	0.00
300	5.45
400	6.70
500	7.95
600	9.20
700	10.45
800	11.70
900	12.95
Over 900	12.95 plus 1.25 for each 100.00 or fraction thereof over 900.00. Maximum indemnity varies by country.

Notes

1. Insurance coverage is provided, for no additional charge, up to $200.00 for merchandise, and up to $100.00 for document reconstruction.

b. Global Express Guaranteed Insurance

($)		($)	($)
Amount of coverage:			
0.01	to	100.00	0.00
100.01	to	200.00	1.00
200.01	to	300.00	2.00
300.01	to	400.00	3.00
400.01	to	500.00	4.00
For document reconstruction insurance or non-document insurance coverage above 500.00, add 1.00 per 100.00 or fraction thereof, up to a maximum of 2,499.00 per shipment. Maximum indemnity varies by country.			
Up to		2,499.00	24.00

2615.6 Custom Clearance and Delivery Fee

* * *

2615.6.2 Prices

	($)
Per Dutiable Item	6.25

2620 International Money Transfer Service—Outbound

* * *

2620.3 Prices

International Money Order

	($)
Per International Money Order	8.55
Inquiry Fee	6.45

Vendor Assisted Electronic Money Transfer

	Transfer amount		
	Minimum amount ($)	Maximum amount ($)	Per transfer ($)
Electronic Money Transfer	0.01	750.00	12.20
	750.01	1,500.00	18.45
Refund	0.01	1,500.00	27.95
Change of Recipient	0.01	1,500.00	13.45

Electronic Money Transfer

[Reserved]

2625 International Money Transfer Service—Inbound

* * *

2630 Premium Forwarding Service

* * *

2630.2 Prices

	($)
Online Enrollment (Commercial and Residential)	18.45
Retail Counter Enrollment (Residential Only)	20.10
Weekly Reshipment (Residential Only)	20.10
Priority Mail Half Tray Box (Commercial Only)	21.15
Priority Mail Full Tray Box (Commercial Only)	38.55
Priority Mail Express Half Tray Box (Commercial Only)	51.95
Priority Mail Express Full Tray Box (Commercial Only)	99.75

2635 Shipping and Mailing Supplies

* * *

2635.2 Prices [1]

	($)
Mailers	0.39 to 25.00
Cartons	0.99 to 25.00
Supplies	0.49 to 14.65
Shipping Fees	0.00 to 25.00
Expedited Shipping Fees	2.50

Notes

[1] Minimum price applies to average price paid per item when multiple items are purchased together.

2640 Post Office Box Service

* * *

2640.4 Prices

REGULAR—SEMI-ANNUAL FEES [1 2 3 4]

Box Size	C1 ($)	C2 ($)	C3 ($)	C4 ($)	C5 ($)	C6 ($)	C7 ($)
1	37.00 to 180.00	30.00 to 150.00	25.00 to 120.00	21.00 to 90.00	19.00 to 80.00	14.00 to 56.00	12.00 to 50.00
2	55.00 to 270.00	46.00 to 225.00	38.00 to 185.00	32.00 to 135.00	25.00 to 105.00	20.00 to 85.00	16.00 to 70.00

REGULAR—SEMI-ANNUAL FEES [1 2 3 4]—Continued

Box Size	C1 ($)	C2 ($)	C3 ($)	C4 ($)	C5 ($)	C6 ($)	C7 ($)
3	100.00 to 432.00	80.00 to 275.00	70.00 to 235.00	50.00 to 172.00	45.00 to 140.00	34.00 to 128.00	27.00 to 104.00
4	205.00 to 690.00	160.00 to 414.00	128.00 to 330.00	100.00 to 302.00	80.00 to 242.00	60.00 to 212.00	45.00 to 164.00
5	325.00 to 1080.00	275.00 to 708.00	215.00 to 570.00	185.00 to 526.00	140.00 to 402.00	105.00 to 344.00	80.00 to 272.00

Notes

[1] At ZIP Code locations specified on usps.com, customers who have not had box service for the last six months may obtain an initial 13 months of service for twice the semi-annual fees provided above.

[2] 3-month fees must fall within the range consisting of one-half the applicable minimum and one-half the applicable maximum in the above price table.

[3] A portion of the fee may serve as postage on packages delivered to competitive Post Office Box service customers after being brought to the Post Office by a private carrier.

[4] For customers using the Enterprise PO Box Online system, the semi-annual fees may be prorated one time to align payment periods for multiple boxes. The prorated fee for each such box will be based on the number of months between the expiration of the current fee and the month of the payment alignment.

POSTAL FACILITIES PRIMARILY SERVING ACADEMIC INSTITUTIONS OR THEIR STUDENTS

Period of box use (days)	Price
95 or less	½ semiannual price.
96 to 140	¾ semiannual price.
141 to 190	Semiannual price.
191 to 230	1¼ semiannual price.
231 to 270	1½ semiannual price.
271 to full year	Two times semiannual price.

ANCILLARY POST OFFICE BOX SERVICES

	($)
Key duplication or replacement	6.00
Lock replacement	22.00
Key deposit [1]	3.00

Notes

1. Key deposit only applies to additional keys or replacement keys.

2645 Competitive Ancillary Services 2645.1.2 Prices

2645.1 Adult Signature

* * *

	($)
Adult Signature Required	6.10
Adult Signature Restricted Delivery	6.35

2645.2 Package Intercept Service 2645.2.2 Prices

* * *

	($)
Package Intercept Service	13.45

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Part V

Environmental Protection Agency

40 CFR Part 52

Air Plan Approval; Georgia; Cross-State Air Pollution Rule; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0452; FRL–9969–30—Region 4]

Air Plan Approval; Georgia; Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of a revision to the Georgia State Implementation Plan (SIP) concerning the Cross-State Air Pollution Rule (CSAPR) and the Clean Air Interstate Rule (CAIR) that was submitted by Georgia on July 26, 2017. Under CSAPR, large electricity generating units (EGUs) in Georgia are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR's federal trading program for annual emissions of nitrogen oxides (NO_X), one of CSAPR's two federal trading programs for annual emissions of sulfur dioxide (SO_2), and one of CSAPR's two federal trading programs for ozone season emissions of NO_X. This action approves the State's regulations requiring large Georgia EGUs to participate in new CSAPR state trading programs for annual NO_X, annual SO_2, and ozone season NO_X emissions integrated with the CSAPR federal trading programs, replacing the corresponding FIP requirements. Under the CSAPR regulations, approval of these portions of the SIP revision automatically eliminates Georgia's units' obligations under the corresponding CSAPR FIPs addressing interstate transport requirements for the 1997 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS), the 2006 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour Ozone NAAQS. Approval of these portions of the SIP revision satisfies Georgia's good neighbor obligation for the 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour Ozone NAAQS. In addition, approval of this revision removes from Georgia's SIP those state trading program rules adopted to comply with CAIR.

DATES: This rule is effective November 13, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0452. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information 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 at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ashten Bailey, Air Regulatory Management Section, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bailey can be reached by telephone at (404) 562–9164 or via electronic mail at *bailey.ashten@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on CAIR

To help reduce interstate transport of ozone and $PM_{2.5}$ pollution in the eastern half of the United States, EPA finalized CAIR in May 2005.[1] CAIR addressed both the 1997 Ozone and $PM_{2.5}$ NAAQS and required 28 states, including Georgia, and the District of Columbia to limit emissions of NO_X and SO_2. For CAIR, EPA developed three separate cap and trade programs that could be used to achieve the required reductions: The CAIR NO_X ozone season trading program, the CAIR NO_X annual trading program, and the CAIR SO_2 trading program. Georgia was subject to CAIR requirements only with respect to annual NO_X and SO_2 emissions.

On December 23, 2008, CAIR was remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), modified on rehearing, 550 F.3d 1176. This ruling allowed CAIR to remain in effect until a new interstate transport rule consistent with the Court's opinion was developed. While EPA worked on developing a new rule to address the interstate transport of air pollution, the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

In response to the remand of CAIR, EPA promulgated CSAPR on July 6, 2011.[2] Along with provisions discussed more fully in the following section, the rule contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of CSAPR compliance requirements. CSAPR was to become effective January 1, 2012; however, the timing of CSAPR's implementation was impacted by a number of court actions. On December 30, 2011, the D.C. Circuit stayed CSAPR prior to its implementation, and EPA was ordered to continue administering CAIR on an interim basis.[3] In a subsequent decision on the merits, the Court vacated CSAPR based on a subset of petitioners' claims.[4] However, on April 29, 2014, the U.S. Supreme Court reversed that decision and remanded the case to the D.C. Circuit for further proceedings.[5] Throughout the initial round of D.C. Circuit proceedings and the ensuing Supreme Court proceedings, the stay on CSAPR remained in place, and EPA continued to implement CAIR.

Following the April 2014 Supreme Court decision, EPA filed a motion asking the D.C. Circuit to lift the stay in order to allow CSAPR to replace CAIR in an equitable and orderly manner while further D.C. Circuit proceedings were held to resolve remaining claims from petitioners. Additionally, EPA's motion requested to toll, by three years, all CSAPR compliance deadlines that had not passed as of the approval date of the stay. On October 23, 2014, the D.C. Circuit granted EPA's request, and on December 3, 2014 (79 FR 71663), in an interim final rule, EPA set the updated effective date of CSAPR as January 1, 2015, and tolled the implementation of CSAPR Phase 1 to 2015 and CSAPR Phase 2 to 2017. In accordance with the interim final rule, the sunset date for CAIR was December 31, 2014, and EPA began implementing CSAPR on January 1, 2015.[6]

[1] 70 FR 25172 (May 12, 2005).

[2] *See* 76 FR 48208 (August 8, 2011).

[3] Order of December 30, 2011, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302.

[4] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), cert. granted 133 U.S. 2857 (2013).

[5] *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1600–01 (2014).

[6] *See* 40 CFR 51.123(ff) (sunsetting CAIR requirements related to NO_X); 40 CFR 51.124(s) (sunsetting CAIR requirements related to SO_2).

II. Background on CSAPR and CSAPR-Related SIP Revisions

As discussed previously, EPA issued CSAPR in July 2011 to address the requirements of Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution. As amended (including by the 2016 CSAPR Update [7]), CSAPR requires 27 Eastern states to limit their statewide emissions of SO_2 and/or NO_X in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: The 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1997 8-hour Ozone NAAQS, and the 2008 8-hour Ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2, annual NO_X, and/or ozone season NO_X by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 (and CSAPR Update) budgets applying to emissions in 2017 and later years. As a mechanism for achieving compliance with the emissions limitations, CSAPR establishes five federal emissions trading programs: a program for annual NO_X emissions, two geographically separate programs for annual SO_2 emissions, and two geographically separate programs for ozone-season NO_X emissions. CSAPR also establishes FIP requirements applicable to the large EGUs in each covered state.[8] Currently, the CSAPR FIP provisions require each state's units to participate in up to three of the five CSAPR trading programs.

CSAPR includes provisions under which states may submit and EPA will approve SIP revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations using either CSAPR's federal emissions trading programs or state emissions trading programs integrated with the federal programs, provided that the SIP revisions meet all relevant criteria.[9] Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units, employing any state-selected methodology to allocate or auction the allowances, subject to timing conditions and limits on overall allowance quantities. In the case of CSAPR's federal trading programs for ozone season NO_X emissions (or an integrated state trading program), a state may also expand trading program applicability to include certain smaller EGUs.[10] If a state wants to replace CSAPR FIP requirements with SIP requirements under which the state's units participate in a state trading program that is integrated with and identical to the federal trading program even as to the allocation and applicability provisions, the state may submit a SIP revision for that purpose as well. However, no emissions budget increases or other substantive changes to the trading program provisions are allowed. A state whose units are subject to multiple CSAPR FIPs and federal trading programs may submit SIP revisions to modify or replace either some or all of those FIP requirements.

States can submit two basic forms of CSAPR-related SIP revisions effective for emissions control periods in 2017 or later years.[11] Specific conditions for approval of each form of SIP revision are set forth in the CSAPR regulations. Under the first alternative—an ''abbreviated'' SIP revision—a state may submit a SIP revision that upon approval replaces the default allowance allocation and/or applicability provisions of a CSAPR federal trading program for the state.[12] Approval of an abbreviated SIP revision leaves the corresponding CSAPR FIP and all other provisions of the relevant federal trading program in place for the state's units.

Under the second alternative—a ''full'' SIP revision—a state may submit a SIP revision that upon approval replaces a CSAPR federal trading program for the state with a state trading program integrated with the federal trading program, so long as the state trading program is substantively identical to the federal trading program or does not substantively differ from the federal trading program except as discussed above with regard to the allowance allocation and/or applicability provisions.[13] For purposes of a full SIP revision, a state may either adopt state rules with complete trading program language, incorporate the federal trading program language into its state rules by reference (with appropriate conforming changes), or employ a combination of these approaches.

The CSAPR regulations identify several important consequences and limitations associated with approval of a full SIP revision. First, upon EPA's approval of a full SIP revision as correcting the deficiency in the state's implementation plan that was the basis for a particular set of CSAPR FIP requirements, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction without the need for a separate EPA withdrawal action, so long as EPA's approval of the SIP is full and unconditional.[14] Second, approval of a full SIP revision does not terminate the obligation to participate in the corresponding CSAPR federal trading program for any units located in any Indian country within the borders of the state, and if and when a unit is located in Indian country within a state's borders, EPA may modify the SIP approval to exclude from the SIP, and include in the surviving CSAPR FIP instead, certain trading program provisions that apply jointly to units in the state and to units in Indian country

[7] *See* 81 FR 74504 (October 26, 2016). The CSAPR Update was promulgated to address interstate pollution with respect to the 2008 8-hour Ozone NAAQS and to address a judicial remand of certain original CSAPR ozone season NO_X budgets promulgated with respect to the 1997 8-hour Ozone NAAQS. *See* 81 FR at 74505. The CSAPR Update established new emission reduction requirements addressing the more recent NAAQS and coordinated them with the remaining emission reduction requirements addressing the older ozone NAAQS, so that starting in 2017, CSAPR includes two geographically separate trading programs for ozone season NO_X emissions covering EGUs in a total of 23 states. *See* 40 CFR 52.38(b)(1)–(2).

[8] States are required to submit good neighbor SIPs within three years (or less, if the Administrator so prescribes) after a NAAQS is promulgated. CAA section 110(a)(1) and (2). Where EPA finds that a state fails to submit a required SIP or disapproves a SIP, EPA is obligated to promulgate a FIP addressing the deficiency. CAA section 110(c). EPA found that Georgia failed to make timely submissions required to address the good neighbor provision with respect to the 1997 Annual $PM_{2.5}$ and 8-hour Ozone NAAQS (70 FR 21147, April 25, 2005), and the 2008 8-hour Ozone NAAQS (80 FR 39961, June 13, 2015). In addition, EPA disapproved Georgia's SIP revision submitted to address the good neighbor provision with respect to the 2006 24-hour $PM_{2.5}$ NAAQS. 76 FR 43159 (July 20, 2011). Accordingly, as a part of CSAPR and the CSAPR Update, EPA promulgated FIPs applicable to sources in Georgia addressing the good neighbor provision with respect to the 1997 annual $PM_{2.5}$, 1997 8-hour Ozone NAAQS, and the 2006 24-hour $PM_{2.5}$ NAAQS. As discussed below, when EPA finalized the CSAPR Update, EPA determined that Georgia did not interfere with nonattainment or maintenance for the 2008 8-hour Ozone NAAQS.

[9] *See* 40 CFR 52.38, 52.39. States also retain the ability to submit SIP revisions to meet their transport-related obligations using mechanisms other than the CSAPR federal trading programs or integrated state trading programs.

[10] States covered by both the CSAPR Update and the NO_X SIP Call have the additional option to expand applicability under the CSAPR NO_X Ozone Season Group 2 Trading Program to include non-EGUs that would have participated in the former NO_X Budget Trading Program.

[11] CSAPR also provides for a third, more streamlined form of SIP revision that is effective only for control periods in 2016 and is not relevant here. *See* 40 CFR 52.38(a)(3), (b)(3), (b)(7); 52.39(d), (g).

[12] 40 CFR 52.38(a)(4), (b)(4), (b)(8); 52.39(e), (h).

[13] 40 CFR 52.38(a)(5), (b)(5), (b)(9); 52.39(f), (i).

[14] 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j).

within the state's borders.[15] Finally, if at the time a full SIP revision is approved EPA has already started recording allocations of allowances for a given control period to a state's units, the federal trading program provisions authorizing EPA to complete the process of allocating and recording allowances for that control period to those units will continue to apply, unless EPA's approval of the SIP revision provides otherwise.[16]

On July 28, 2015, the D.C. Circuit issued a decision on a number of petitions related to CSAPR, which found that EPA required more emissions reductions than may have been necessary to address the downwind air quality problems to which some states contribute. The Court remanded several CSAPR emission budgets to EPA for reconsideration, including the Phase 2 SO_2 trading budget for Georgia.[17] However, Georgia has voluntarily adopted into their SIP a CSAPR state trading program that is integrated with the federal trading program and includes a state-established SO_2 budget equal to the state's remanded Phase 2 SO_2 emission budget.[18] EPA notes that nothing in the Court's decision affects Georgia's authority to seek incorporation into its SIP of a state-established budget as stringent as the remanded federally-established budget or limits EPA's authority to approve such a SIP revision. The CSAPR regulations provide each covered state with the option to meet its transport obligations through SIP revisions replacing the federal trading programs and requiring the state's EGUs to participate in integrated CSAPR state trading programs that apply emissions budgets of the same or greater stringency. Under the CSAPR regulations, when such a SIP revision is approved, the corresponding FIP provisions are automatically withdrawn.

In the CSAPR rulemaking, EPA determined that air pollution transported from EGUs in Georgia would unlawfully affect other states' ability to attain or maintain the 1997 8-hour Ozone NAAQS, the 1997 Annual $PM_{2.5}$ NAAQS, and the 2006 24-hour $PM_{2.5}$ NAAQS, and included Georgia in the CSAPR ozone season NO_X trading program and the annual SO_2 and NO_X trading programs.[19] In the CSAPR Update rulemaking, EPA determined that Georgia was not linked to any identified downwind nonattainment or maintenance receptors for the 2008 8-hour Ozone NAAQS.[20] Georgia's units meeting the CSAPR applicability criteria are consequently currently subject to CSAPR FIPs that require participation in the CSAPR NO_X Annual Trading Program, the CSAPR NO_X Ozone Season Group 1 Trading Program, and the CSAPR SO_2 Group 2 Trading Program.[21]

On July 26, 2017, Georgia submitted to EPA a SIP revision including provisions that, upon approval, incorporates into Georgia's SIP CSAPR state trading program regulations to replace the CSAPR regulations for all three of these federal trading programs with regard to Georgia units, and removes SIP provisions related to CAIR. In a notice of proposed rulemaking (NPRM) published on August 16, 2017 (82 FR 38866), EPA proposed to approve the portions of Georgia's July 26, 2017, SIP submittal designed to replace the CSAPR federal trading programs and remove CAIR from Georgia's SIP. The NPRM provides additional detail regarding the background and rationale for EPA's actions. Comments on the NPRM were due on or before September 15, 2017. EPA received no adverse comments on the proposed action.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rules for Air Quality Control, Rule 391–3–1–.02(12), Rule 391–3–1–.02(13), and Rule 391–3–1–.02(14), state effective on July 20, 2017, comprising Georgia's Cross State Air Pollution Rule NO_X Annual Trading Program, Georgia's Cross State Air Pollution Rule SO_2 Annual Trading Program, and Georgia's Cross State Air Pollution Rule NO_X Ozone Season Trading Program, respectively. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[22]

IV. Final Actions

EPA is approving the portions of Georgia's July 26, 2017, SIP submittal concerning the establishment for Georgia units of CSAPR state trading programs for annual NO_X, annual SO_2 emissions, and ozone season NO_X emissions. This approval revises the Georgia Rules for Air Quality Control in the SIP to include CSAPR as follows: 391–3–1–.02(12) will be revised to include Georgia's ''Cross State Air Pollution Rule NO_X Annual Trading Program;'' 391–3–1–.02(13) will be revised to include Georgia's ''Cross State Air Pollution Rule SO_2 Annual Trading Program;'' and 391–3–1–.02(14) will be added to include ''Georgia's Cross State Air Pollution Rule NO_X Ozone Season Trading Program.'' These Georgia CSAPR state trading programs will be integrated with the federal CSAPR NO_X Annual Trading Program, the federal CSAPR SO_2 Group 2 Trading Program, and the federal CSAPR NO_X Ozone Season Group 1 Trading Program, respectively, and are substantively identical to the federal trading programs. Georgia units will generally be required to meet requirements under Georgia's CSAPR state trading programs equivalent to the requirements the units otherwise would have been required to meet under the corresponding CSAPR federal trading programs. EPA is approving these portions of the SIP revision because they meet the requirements of the CAA and EPA's regulations for approval of a CSAPR full SIP revision replacing a federal trading program with a state trading program.

[15] 40 CFR 52.38(a)(5)(iv)–(v), (a)(6), (b)(5)(v)–(vi), (b)(9)(vi)–(vii), (b)(10)(i); 52.39(f)(4)–(5), (i)(4)–(5), (j).

[16] 40 CFR 52.38(a)(7), (b)(11)(i); 52.39(k).

[17] *EME Homer City Generation, L.P.* v. *EPA (EME Homer City II),* 795 F.3d 118 (D.C. Cir. 2015). The D.C. Circuit also remanded SO_2 budgets for Alabama, South Carolina, and Texas. The court also remanded Phase 2 ozone-season NO_X budgets for eleven states, which did not include Georgia.

[18] *See* memo entitled ''The U.S. Environmental Protection Agency's Plan for Responding to the Remand of the Cross-State Air Pollution Rule Phase 2 SO_2 Budgets for Alabama, Georgia, South Carolina and Texas'' from Janet G. McCabe, EPA Acting Assistant Administrator for Air and Radiation, to EPA Regional Air Division Directors (June 27, 2016), available at *https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0598-0003.* The memo directs the Regional Air Division Directors to share the memo with state officials. EPA also communicated orally with officials in Alabama, Georgia, South Carolina, and Texas in advance of the memo.

[19] 76 FR 48208, 48213 (August 8, 2011).

[20] 81 FR 74504, 74506 (October 26, 2016). EPA also determined in the CSAPR Update rulemaking that Georgia had no further transport obligation under CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 Ozone NAAQS beyond the ozone season NO_X emission reduction requirements established in the original CSAPR rulemaking. *Id.* at 74525.

[21] 40 CFR 52.38(a)(2), (b)(2); 52.39(c); 52.584; 52.585.

[22] 62 FR 27968 (May 22, 1997).

EPA promulgated FIPs requiring Georgia units to participate in the federal CSAPR NO_X Annual Trading Program, the federal CSAPR SO_2 Group 2 Trading Program, and the federal CSAPR NO_X Ozone Season Group 1 Trading Program in order to address Georgia's obligations under CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour Ozone NAAQS in the absence of SIP provisions addressing those requirements. Approval of the portions of Georgia's SIP submittal adopting CSAPR state trading program rules for annual NO_X, annual SO_2, and ozone season NO_X substantively identical to the corresponding CSAPR federal trading program regulations (or differing only with respect to the allowance allocation methodology) satisfies Georgia's obligation pursuant to CAA section 110(a)(2)(D)(i)(I) to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour Ozone NAAQS in any other state and therefore corrects the same deficiency in the SIP that otherwise would be corrected by those CSAPR FIPs. Under the CSAPR regulations, upon EPA's full and unconditional approval of a SIP revision as correcting the SIP's deficiency that is the basis for a particular CSAPR FIP, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction (but not for any units located in any Indian country within the state's borders). Approval of the portions of Georgia's SIP submittal establishing CSAPR state trading program rules for annual NO_X, annual SO_2, and ozone season NO_X emissions therefore results in automatic termination of the obligations of Georgia units to participate in the federal CSAPR NO_X Annual Trading Program, the federal CSAPR SO_2 Group 2 Trading Program, and the federal CSAPR NO_X Ozone Season Group 1 Trading Program.

As noted previously, the Phase 2 SO_2 budget established for Georgia in the CSAPR rulemaking has been remanded to EPA for reconsideration. As this action finalizes approval of these portions of the SIP revision as proposed, Georgia will have fulfilled its obligations to provide a SIP that addresses the interstate transport provisions of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour Ozone NAAQS. Thus, EPA is no longer under an obligation to (nor does EPA have the authority to) address those transport requirements through implementation of a FIP, and approval of these portions of the SIP revision eliminates Georgia units' obligations to participate in the federal CSAPR NO_X Annual Trading Program, the federal CSAPR SO_2 Group 2 Trading Program, and the federal CSAPR NO_X Ozone Season Group 1 Trading Program. Elimination of Georgia units' obligations to participate in the federal trading programs includes elimination of the federally-established Phase 2 budgets capping allocations of CSAPR NO_X Annual allowances, CSAPR SO_2 Group 2 allowances, and CSAPR NO_X Ozone Season Group 1 allowances to Georgia units under those federal trading programs. As approval of these portions of the SIP revision eliminates Georgia's remanded federally-established Phase 2 SO_2 budget and eliminates EPA's authority to subject units in Georgia to a FIP, approval of this SIP action addresses the judicial remand of Georgia's federally-established Phase 2 SO_2 budget.

In addition, EPA is approving the portions of Georgia's July 26, 2017, SIP revision removing Georgia's state trading provisions adopted to implement CAIR: Georgia Rules for Air Quality control at provisions 391–3–1–.02(12), ''Clean Air Interstate Rule NO_X Annual Trading Program'' and 391–3–1–.02(13) ''Clean Air Interstate Rule SO_2 Annual Trading Program.''

V. Statutory and Executive Order Reviews

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 12, 2017. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III

Regional Administrator, Region 4.

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 A—General Provisions

§ 52.38 [Amended]

■ 2. Amend § 52.38:

■ a. In paragraph (a)(8)(iii) after the word ''Alabama'' by adding the words ''and Georgia''; and

■ b. In paragraph (b)(12)(iii), by removing the text ''[none]'' and adding the word ''Georgia'' in its place.

§ 52.39 [Amended]

■ 3. Amend § 52.39 paragraph (m)(3) after the word ''Alabama'' by adding the words ''and Georgia''.

Subpart L—Georgia

■ 4. In § 52.570, the table in paragraph (c) is amended by revising the entries ''391–3–1–.02(12)'' and ''391–3–1–.02(13),''; and adding in numerical order an entry for ''391–3–1–.02(14)'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
391–3–1–.02(12)	Cross State Air Pollution Rule NO_X Annual Trading Program.	7/20/2017	10/13/2017, [Insert **Federal Register** citation].	
391–3–1–.02(13)	Cross State Air Pollution Rule SO_2 Annual Trading Program.	7/20/2017	10/13/2017, [Insert **Federal Register** citation].	
391–3–1–.02(14)	Cross State Air Pollution Rule NO_X Ozone Season Trading Program.	7/20/2017	10/13/2017, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–22126 Filed 10–12–17; 8:45 am]

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Part VI

Environmental Protection Agency

40 CFR Part 52

Air Plan Approval; South Carolina; Cross-State Air Pollution Rule; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0364; FRL–9969–27–Region 4]

Air Plan Approval; South Carolina; Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of a revision to the South Carolina State Implementation Plan (SIP) concerning the Cross-State Air Pollution Rule (CSAPR). South Carolina submitted a draft version of this SIP revision for parallel processing on May 26, 2017, and a final version on September 5, 2017. Under CSAPR, large electricity generating units (EGUs) in South Carolina are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR's federal trading program for annual emissions of nitrogen oxides (NO_X) and one of CSAPR's two federal trading programs for annual emissions of sulfur dioxide (SO_2). This action approves the State's regulations requiring large South Carolina EGUs to participate in new CSAPR state trading programs for annual NO_X and SO_2 emissions integrated with the CSAPR federal trading programs and incorporates them into South Carolina's SIP, replacing the corresponding FIP requirements. These CSAPR state trading programs are substantively identical to the CSAPR federal trading programs, with the State retaining EPA's default allowance allocation methodology and EPA remaining the implementing authority for administration of the trading program. Under the CSAPR regulations, approval of these portions of the SIP revision automatically eliminates South Carolina units' obligations to participate in CSAPR's federal trading programs for annual NO_X and SO_2 emissions under the corresponding CSAPR FIPs addressing interstate transport requirements for the 1997 Annual Fine Particulate Matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). Approval of these portions of the SIP revision satisfies South Carolina's good neighbor obligation for the 1997 Annual $PM_{2.5}$ NAAQS. EPA is not acting on any other portion of the September 5, 2017 submittal.

DATES: This rule is effective November 13, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0364. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information 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 at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ashten Bailey, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bailey can be reached by telephone at (404) 562–9164 or via electronic mail at *bailey.ashten@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on CSAPR and CSAPR-Related SIP Revisions

EPA issued CSAPR in July 2011 to address the requirements of Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution.[1] As amended (including the 2016 CSAPR Update),[2] CSAPR requires 27 Eastern states to limit their statewide emissions of SO_2 and/or NO_X in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: The 1997 Annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2, annual NO_X, and/or ozone season NO_X by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 (and CSAPR Update) budgets applying to emissions in 2017 and later years. As a mechanism for achieving compliance with the emissions limitations, CSAPR establishes five federal emissions trading programs: A program for annual NO_X emissions, two geographically separate programs for annual SO_2 emissions, and two geographically separate programs for ozone-season NO_X emissions. CSAPR also establishes FIP requirements applicable to the large EGUs in each covered state. Currently, the CSAPR FIP provisions require each state's units to participate in up to three of the five CSAPR trading programs.

CSAPR includes provisions under which states may submit and EPA will approve SIP revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations using either CSAPR's federal emissions trading programs or state emissions trading programs integrated with the federal programs.[3] Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units, employing any state-selected methodology to allocate or auction the allowances, subject to timing conditions and limits on overall allowance quantities. In the case of CSAPR's federal trading programs for ozone season NO_X emissions (or an integrated state trading program), a state may also expand trading program applicability to include certain smaller EGUs.[4] If a state

[1] Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and subparts AAAAA through EEEEE of 40 CFR part 97).

[2] 81 FR 74504 (October 26, 2016). The CSAPR Update was promulgated to address interstate pollution with respect to the 2008 ozone NAAQS and to address a judicial remand of certain original CSAPR ozone season NO_X budgets promulgated with respect to the 1997 ozone NAAQS. 81 FR at 74505. The CSAPR Update established new emission reduction requirements addressing the more recent NAAQS and coordinated them with the remaining emission reduction requirements addressing the older NAAQS, so that starting in 2017, CSAPR includes two geographically separate trading programs for ozone season NO_X emissions covering EGUs in a total of 23 states. *See* 40 CFR 52.38(b)(1)–(2).

[3] *See* 40 CFR 52.38, 52.39. States also retain the ability to submit SIP revisions to meet their transport-related obligations using mechanisms other than the CSAPR federal trading programs or integrated state trading programs.

[4] States covered by both the CSAPR Update and the NO_X SIP Call have the additional option to expand applicability under the CSAPR NO_X Ozone Season Group 2 Trading Program to include non-electric generating units that would have

wants to replace CSAPR FIP requirements with SIP requirements under which the state's units participate in a state trading program that is integrated with and identical to the federal trading program even as to the allocation and applicability provisions, the state may submit a SIP revision for that purpose as well. However, no emissions budget increases or other substantive changes to the trading program provisions are allowed. A state whose units are subject to multiple CSAPR FIPs and federal trading programs may submit SIP revisions to modify or replace either some or all of those FIP requirements.

States can submit two basic forms of CSAPR-related SIP revisions effective for emissions control periods in 2017 or later years.[5] Specific conditions for approval of each form of SIP revision are set forth in the CSAPR regulations. Under the first alternative—an ''abbreviated'' SIP revision—a state may submit a SIP revision that upon approval replaces the default allowance allocation and/or applicability provisions of a CSAPR federal trading program for the state.[6] Approval of an abbreviated SIP revision leaves the corresponding CSAPR FIP and all other provisions of the relevant federal trading program in place for the state's units.

Under the second alternative—a ''full'' SIP revision—a state may submit a SIP revision that upon approval replaces a CSAPR federal trading program for the state with a state trading program integrated with the federal trading program, so long as the state trading program is substantively identical to the federal trading program or does not substantively differ from the federal trading program except as discussed previously with regard to the allowance allocation and/or applicability provisions.[7] For purposes of a full SIP revision, a state may either adopt state rules with complete trading program language, incorporate the federal trading program language into its state rules by reference (with appropriate conforming changes), or employ a combination of these approaches.

The CSAPR regulations identify several important consequences and limitations associated with approval of a full SIP revision. First, upon EPA's approval of a full SIP revision as correcting the deficiency in the state's implementation plan that was the basis for a particular set of CSAPR FIP requirements, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction without the need for a separate EPA withdrawal action, so long as EPA's approval of the SIP is full and unconditional.[8] Second, approval of a full SIP revision does not terminate the obligation to participate in the corresponding CSAPR federal trading program for any units located in any Indian country within the borders of the state, and if and when a unit is located in Indian country within a state's borders, EPA may modify the SIP approval to exclude from the SIP, and include in the surviving CSAPR FIP instead, certain trading program provisions that apply jointly to units in the state and to units in Indian country within the state's borders.[9] Finally, if at the time a full SIP revision is approved EPA has already started recording allocations of allowances for a given control period to a state's units, the federal trading program provisions authorizing EPA to complete the process of allocating and recording allowances for that control period to those units will continue to apply, unless EPA's approval of the SIP revision provides otherwise.[10]

On July 28, 2015, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision on a number of petitions related to CSAPR, which found that EPA required more emissions reductions than may have been necessary to address the downwind air quality problems to which some states contribute. The court remanded several CSAPR emission budgets to EPA for reconsideration, including the Phase 2 SO_2 trading budget for South Carolina.[11] However, South Carolina has proposed to voluntarily adopt into their SIP a CSAPR state trading program that is integrated with the federal trading program and includes a state-established SO_2 budget equal to the state's remanded Phase 2 SO_2 emission budget.[12] EPA notes that nothing in the court's decision affects South Carolina's authority to seek incorporation into its SIP of a state-established budget as stringent as the remanded federally-established budget or limits EPA's authority to approve such a SIP revision. The CSAPR regulations provide each covered state with the option to meet its transport obligations through SIP revisions replacing the federal trading programs and requiring the state's EGUs to participate in integrated CSAPR state trading programs that apply emissions budgets of the same or greater stringency. Under the CSAPR regulations, when such a SIP revision is approved, the corresponding FIP provisions are automatically withdrawn.

In the CSAPR rulemaking, EPA determined that air pollution transported from South Carolina would unlawfully affect other states' ability to attain or maintain the 1997 Annual $PM_{2.5}$ NAAQS.[13] South Carolina units meeting the CSAPR applicability criteria were consequently made subject to FIP provisions requiring participation in CSAPR federal trading programs for annual SO_2 and annual NO_X emissions.[14] On May 26, 2017, South Carolina submitted to EPA a draft SIP revision including provisions that, if all portions were approved, would incorporate into South Carolina's SIP CSAPR state trading program regulations that would replace the CSAPR regulations for the two federal trading programs with regard to South Carolina units.

In a notice of proposed rulemaking (NPRM) published on August 10, 2017 (82 FR 37389), EPA proposed to approve the portions of South Carolina's May 26, 2017, draft SIP submittal designed to replace the CSAPR federal annual SO_2 and NO_X trading programs. Because South Carolina submitted the draft SIP revision for parallel processing, EPA's August 10, 2017, proposed rulemaking

participated in the former NO_X Budget Trading Program.

[5] CSAPR also provides for a third, more streamlined form of SIP revision that is effective only for control periods in 2016 and is not relevant here. *See* 40 CFR 52.38(a)(3), (b)(3), (b)(7); 52.39(d), (g).

[6] 40 CFR 52.38(a)(4), (b)(4), (b)(8); 52.39(e), (h).

[7] 40 CFR 52.38(a)(5), (b)(5), (b)(9); 52.39(f), (i).

[8] 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j).

[9] 40 CFR 52.38(a)(5)(iv)–(v), (a)(6), (b)(5)(v)–(vi), (b)(9)(vi)–(vii), (b)(10)(i); 52.39(f)(4)–(5), (i)(4)–(5), (j).

[10] 40 CFR 52.38(a)(7), (b)(11)(i); 52.39(k).

[11] *EME Homer City Generation, L.P.* v. *EPA (EME Homer City II),* 795 F.3d 118 (D.C. Cir. 2015). The D.C. Circuit also remanded SO_2 budgets for Alabama, Georgia, and Texas. The court also remanded Phase 2 ozone-season NO_X budgets for eleven states, including South Carolina.

[12] *See* memo entitled ''The U.S. Environmental Protection Agency's Plan for Responding to the Remand of the Cross-State Air Pollution Rule Phase 2 SO_2 Budgets for Alabama, Georgia, South Carolina and Texas'' from Janet G. McCabe, EPA Acting Assistant Administrator for Air and Radiation, to EPA Regional Air Division Directors (June 27, 2016), available at *https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0598-0003.* The memo directs the Regional Air Division Directors to share the memo with state officials. EPA also communicated orally with officials in Alabama, Georgia, South Carolina, and Texas in advance of the memo.

[13] *See* 76 FR at 48213. The NPRM contains a more detailed summary of EPA's determinations with regard to South Carolina in the CSAPR and the CSAPR Update rulemakings.

[14] 40 CFR 52.38(a)(2), (b)(2); 52.39(c); 52.2140; 52.2141.

was contingent upon South Carolina providing a final SIP revision that was substantively the same as the draft SIP revision. *See* 82 FR 37389. Comments on the NPRM were due on or before September 11, 2017. EPA received no adverse comments on the proposed action.

South Carolina submitted the final version of its SIP revision on September 5, 2017.[15] The September 5, 2017, SIP submittal had no substantive changes from the May 26, 2017, draft. Please refer to the NPRM for more detailed information regarding the SIP revision and the Agency's rationale for today's final rulemaking.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61–62.97, entitled ''Cross-State Air Pollution Rule (CSAPR) Trading Program,'' state effective on August 25, 2017. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[16]

III. Final Actions

EPA is approving the portions of South Carolina's September 5, 2017, final SIP submittal concerning the establishment for South Carolina units of CSAPR state trading programs for annual NO_X and SO_2 emissions and adopting into the SIP the state trading program rules codified in South Carolina regulation 61–62.97 (''Cross-State Air Pollution Rule (CSAPR) Trading Program''). These South Carolina CSAPR state trading programs will be integrated with the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 2 Trading Program, respectively, and are substantively identical to the federal trading programs. South Carolina units therefore will generally be required to meet requirements under South Carolina's CSAPR state trading programs equivalent to the requirements the units otherwise would have been required to meet under the corresponding CSAPR federal trading programs. Under the State's regulations, the State will retain EPA's default allowance allocation methodology and EPA will remain the implementing authority for administration of the trading programs. EPA is approving these portions of the SIP revision because they meet the requirements of the CAA and EPA's regulations for approval of a CSAPR full SIP revision replacing a federal trading program with a state trading program that is integrated with and substantively identical to the federal trading program.

EPA promulgated the FIP provisions requiring South Carolina units to participate in the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 2 Trading Program in order to address South Carolina's obligations under CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 $PM_{2.5}$ NAAQS in the absence of SIP provisions addressing those requirements. Approving the portions of South Carolina's SIP submittal adopting CSAPR state trading program rules for annual NO_X and SO_2 substantively identical to the corresponding CSAPR federal trading program regulations (or differing only with respect to the allowance allocation methodology) corrects the same deficiency in the SIP that otherwise would be corrected by those CSAPR FIPs. Under the CSAPR regulations, upon EPA's full and unconditional approval of a SIP revision as correcting the SIP's deficiency that is the basis for a particular CSAPR FIP, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction (but not for any units located in any Indian country within the state's borders).[17] EPA's approval of the portions of South Carolina's SIP submittal establishing CSAPR state trading program rules for annual NO_X and SO_2 emissions therefore results in automatic termination of the obligations of South Carolina units to participate in the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 2 Trading Program. Further, when promulgating the FIP provisions requiring South Carolina units to participate in those two CSAPR trading programs, EPA found that those FIP requirements would fully satisfy South Carolina's obligation pursuant to CAA section 110(a)(2)(D)(i)(I) to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.[18] This approval of portions of South Carolina's SIP revision as correcting the SIP's deficiency that was the basis for those FIP requirements therefore likewise fully satisfies the state's transport obligation with respect to the 1997 $PM_{2.5}$ NAAQS.

As noted in EPA's NPRM, the Phase 2 SO_2 budget established for South Carolina in the CSAPR rulemaking was remanded to EPA for reconsideration.[19] With the approval of these portions of the SIP revision as proposed, South Carolina has fulfilled its obligations to provide a SIP that addresses the interstate transport provisions of CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 $PM_{2.5}$ NAAQS. Thus, EPA no longer has an obligation to (nor does EPA have the authority to) address those transport requirements through implementation of a FIP, and approval of these portions of the SIP revision eliminates South Carolina units' obligations to participate in the federal CSAPR NO_X Annual Trading Program and the federal CSAPR SO_2 Group 2 Trading Program. Elimination of South Carolina units' obligations to participate in the federal trading programs includes elimination of the requirements to comply with the federally-established Phase 2 budgets capping allocations of CSAPR NO_X Annual allowances and CSAPR SO_2 Group 2 allowances to South Carolina units under those federal trading programs. As approval of these portions of the SIP revision eliminates requirements to comply with South Carolina's remanded federally-established Phase 2 SO_2 budget and eliminates EPA's authority to subject units in South Carolina to a FIP, it is EPA's opinion that this action addresses the judicial remand of South Carolina's federally-established Phase 2 SO_2 budget.[20]

[15] Both the draft and final SIP revisions are provided in the docket for this action.

[16] 62 FR 27968 (May 22, 1997).

[17] 40 CFR 52.38(a)(6); 52.39(j); *see also* 52.2140(a)(1); 52.2141(a).

[18] *See* 76 FR at 48210.

[19] *EME Homer City II,* 795 F.3d at 138.

[20] Although the court in *EME Homer City II* remanded South Carolina's Phase 2 SO_2 budget because it determined that the budget was too stringent, nothing in the court's decision affects South Carolina's authority to seek incorporation into its SIP of a state-established budget as stringent as the remanded federally-established budget or limits EPA's authority to approve such a SIP revision. *See* 42 U.S.C. 7416, 7410(k)(3).

IV. Statutory and Executive Order Reviews

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

This rule for South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the state of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' However, the rules proposed for approval exclude units in Indian country from the applicable requirements of the rules and exclude federal trading provisions related to EPA's process for allocating and recording allowances from Indian country NUSAs. EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 12, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 29, 2017.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

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 A—General Provisions

§ 52.38 [Amended]

■ 2. Amend § 52.38, paragraph (a)(8)(iii) by removing the words ''Alabama and Georgia'' and adding the words ''Alabama, Georgia, and South Carolina'' in its place.

§ 52.39 [Amended]

■ 3. Amend § 52.39 paragraph (m)(3) by removing the words ''Alabama and Georgia'' and adding the words ''Alabama, Georgia, and South Carolina'' in its place.

Subpart PP—South Carolina

■ 4. Amend § 52.2120 in the table in paragraph (c) by adding in numerical order an entry for ''Regulation No. 62.97'' to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	**Federal Register** notice
* *	*	*	* *	*
Regulation No. 62.97	Cross-State Air Pollution Rule (CSAPR) Trading Program.	8/25/2017	10/13/2017	[Insert **Federal Register** citation]
* *	*	*	* *	*

* * * * *

[FR Doc. 2017–22128 Filed 10–12–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 82 Friday,

No. 197 October 13, 2017

Part VII

The President

Proclamation 9653—Fire Prevention Week, 2017
Proclamation 9654—National School Lunch Week, 2017
Proclamation 9655—National Manufacturing Day, 2017
Proclamation 9656—Columbus Day, 2017
Proclamation 9657—Leif Erikson Day, 2017

Federal Register
Vol. 82, No. 197
Friday, October 13, 2017

Presidential Documents

Title 3—

The President

Proclamation 9653 of October 6, 2017

Fire Prevention Week, 2017

By the President of the United States of America

A Proclamation

During Fire Prevention Week, we recognize the dangers posed by fires and emphasize the importance of fire prevention and preparation. We also honor our Nation's brave firefighters who have lost their lives in the line of duty and their families, and those firefighters who continue to put their lives on the line each day.

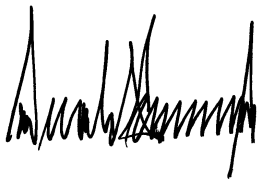
Each year, an average 1.4 million fires burn in the United States. In 2015, fires caused approximately 3,360 deaths and 15,700 injuries. This year, the American West has especially suffered, as wildfires have raged from California to Oregon and Montana. These fires have already consumed more than 8 million acres and destroyed more than 650 homes and other structures. All of this destruction can be sparked by a single careless act. We must remain vigilant whenever we are around fire. By taking the appropriate precautions, we can prevent fires, save lives, and protect property and the environment. In particular, we should always mind dishes on the stovetop, carefully contain and completely extinguish campfires, take care to handle fireworks away from flammable materials, and ensure that cigarettes are handled appropriately and discarded after use.

When a fire breaks out, every second counts. A working smoke alarm can buy the few extra moments necessary to save a life. A well-conceived and regularly practiced plan can help ensure a safe and orderly fire escape for families. All Americans should create a fire escape plan and practice it yearly with their families. We must make sure to teach our children how to escape on their own and make special plans for family members with limited mobility. The National Fire Protection Association's *Every Second Counts: Plan Two Ways Out* campaign can help your family prepare for home fires.

As we observe Fire Prevention Week, we pray for the Federal, State, local, and tribal responders battling the wildfires in the West and around the country and for all those who have lost their homes to fires. We recommit ourselves to preventing fire-related disasters by, among other things, staying current with the latest fire-prevention techniques and raising awareness about fire-safety practices.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 8 through October 14, 2017, as Fire Prevention Week. On Sunday, October 8, 2017, in accordance with Public Law 107–51, the flag of the United States will be flown at half-staff at all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance with appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–22417
Filed 10–12–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9654 of October 6, 2017

National School Lunch Week, 2017

By the President of the United States of America

A Proclamation

The health and well-being of our children is vital to the success of our Nation. When our Nation's youth have their basic needs fulfilled, they can better focus on succeeding in school and in life. During National School Lunch Week, we recognize the benefits that school lunch programs offer to our communities and to our Nation's future.

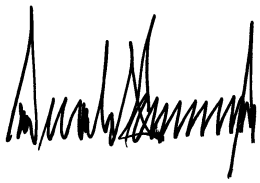
The National School Lunch Program is a partnership between Federal, State, and local governments working together to facilitate the health and development of our Nation's children. Since its inception more than 70 years ago, millions of students have received low-cost or free meals and learned lifelong healthy eating habits. Today, the National School Lunch Program serves more than 31 million students every school day, at nearly 100,000 schools and residential child-care institutions across our Nation.

For many children, school lunch may be their most substantial meal of the day. Adequate nutrition is essential to a child's mental, physical, and emotional well-being, and students who lack sufficient vitamins and minerals, such as iron, vitamin E, vitamin B, thiamine, iodine, and zinc, may suffer from inhibited cognitive functioning and a diminished ability to concentrate. Poor nutrition, especially from excess sugar consumption, may also lead to behavioral problems. School lunches, in addition to providing balanced nutrition, can teach students the relationship between nutrition and classroom performance.

The Congress created the National School Lunch Act to, ''safeguard the health and well-being of the Nation's children.'' More than seven decades later, dedicated Americans continue to work to ensure the nutritional health of our greatest treasure—our young people. During National School Lunch Week, we recognize the food service professionals, school administrators, community members, parents, and all those who dedicate themselves to the health of our schoolchildren. To emphasize the importance of the National School Lunch Program to our youth's nutrition, the Congress, by joint resolution of October 9, 1962 (Public Law 87–780), as amended, has designated the week beginning on the second Sunday in October each year as ''National School Lunch Week'' and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 8 through October 14, 2017, as National School Lunch Week. I call upon all Americans to join the countless individuals who administer the National School Lunch Program in activities that support and promote awareness of the health and well-being of our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–22419
Filed 10–12–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9655 of October 6, 2017

National Manufacturing Day, 2017

By the President of the United States of America

A Proclamation

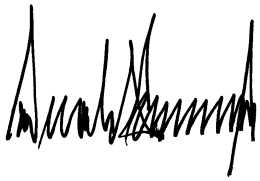
America's manufacturers have laid the foundation for our Nation's vibrant economy and have secured our reputation as an economic superpower. Our manufacturing products consistently set the global standard for design and quality. American manufacturing has been enduringly successful because it is the potent combination of the two great pillars of the American economy: the American entrepreneur and the American worker. The American entrepreneur is renowned throughout the world for a steadfast determination to deliver value and innovation to the global marketplace. The American worker has consistently demonstrated the unique and precious ability to harness unmatched work ethic and ingenuity and turn visions and dreams into reality. On National Manufacturing Day, we celebrate the American manufacturers and their workers who drive our economy, strengthen our national security, and give meaning to the famous phrase, ''Made in the USA.'' We also highlight the many new and exciting opportunities for future generations to create the next wave of world-class American products.

Today's American manufacturers are consistently finding new ways to incorporate advanced technology into the traditional assembly line to produce previously unfathomable breakthroughs in areas like aerospace, medicine, and computers. These manufacturers are writing their chapter into the story of American innovation, while providing countless job opportunities to machinists, designers, computer programmers, and engineers, among others. In 2016, manufacturing contributed more than 11 percent to our gross domestic product and employed more than 12 million workers. The American manufacturers of the 21st century employ innovative minds equipped with problem-solving skills and knowledge steeped in science, technology, engineering, and mathematics, to build their incredible products. It is no surprise, then, that manufacturing workers earn higher annual salaries, on average, than similar workers employed in other sectors.

For too long, we have taken manufacturing, which represents the pioneering, hard-working American spirit, for granted. Due to government neglect and inaction we have witnessed our Nation's manufacturers move their jobs and innovation overseas. Remarkably, we have stood by as our outdated tax system has required job-creators to put their money toward tax preparation and a bloated government, rather than into new jobs and innovations. It has also trapped earnings that could be invested in America, and instead encouraged corporations to invest overseas. Our business tax rate is currently 60 percent higher than that of our average foreign competitor in the developed world. By contrast, my tax plan would lower the tax rate for businesses, so they can stay and do business here and bring back profits invested abroad. Careless and unfair trade deals are also at fault for the diminished state of American manufacturing today. These deals have severely disadvantaged American exports. My Administration, however, will right these wrongs and ensure a level playing field for American manufacturing going forward. Our manufacturers and workers deserve no less. American drive, ingenuity, and innovation will ultimately win, and our great manufacturing sector will thrive once again.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 6, 2017, as National Manufacturing Day. I call upon all Americans to celebrate the entrepreneurs and workers in manufacturing who are making our communities strong.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–22420
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Billing code 3295–F8–P

Presidential Documents

Proclamation 9656 of October 6, 2017

Columbus Day, 2017

By the President of the United States of America

A Proclamation

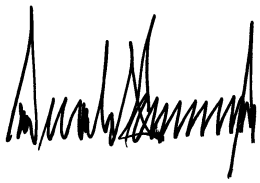
Five hundred and twenty-five years ago, Christopher Columbus completed an ambitious and daring voyage across the Atlantic Ocean to the Americas. The voyage was a remarkable and then-unparalleled feat that helped launch the age of exploration and discovery. The permanent arrival of Europeans to the Americas was a transformative event that undeniably and fundamentally changed the course of human history and set the stage for the development of our great Nation. Therefore, on Columbus Day, we honor the skilled navigator and man of faith, whose courageous feat brought together continents and has inspired countless others to pursue their dreams and convictions—even in the face of extreme doubt and tremendous adversity.

More than five centuries after his initial voyage, we remember the ''Admiral of the Ocean Sea'' for building the critical first link in the strong and enduring bond between the United States and Europe. While Isabella I and Ferdinand II of Spain sponsored his historic voyage, Columbus was a native of the City of Genoa, in present day Italy, and represents the rich history of important Italian American contributions to our great Nation. There can be no doubt that American culture, business, and civic life would all be much less vibrant in the absence of the Italian American community. We also take this opportunity to reaffirm our close ties to Columbus's country of birth, Italy. Italy is a strong ally and a valued partner in promoting peace and promoting prosperity around the world.

In commemoration of Christopher Columbus's historic voyage, the Congress, by joint resolution of April 30, 1934, and modified in 1968 (36 U.S.C. 107), as amended, has requested the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 9, 2017, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of our diverse history and all who have contributed to shaping this Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–22423
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Billing code 3295–F8–P

Presidential Documents

Proclamation 9657 of October 6, 2017

Leif Erikson Day, 2017

By the President of the United States of America

A Proclamation

More than a thousand years ago, explorer Leif Erikson—son of Iceland and grandson of Norway—sailed with his crew to Newfoundland, Nova Scotia, and perhaps even as far west as Maine. These intrepid explorers were likely the first Europeans to reach our great home, North America. On Leif Erikson Day, we celebrate their remarkable journey and the brave Viking culture that lies at the core of the New World's passion for discovery and determination to tackle unimaginable challenges.

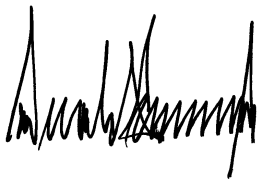
Throughout our country's history, Nordic Americans have made notable contributions to our society. From the everyday to the extraordinary, Nordic accomplishments have touched every aspect of our lives. We owe our hamburgers to Danish-American Louis Lassen, and the famed St. Louis Arch to Finnish-American Eero Saarinen. Norwegian-American and cartoonist Charles M. Schulz brought us the Charlie Brown, Snoopy, and the rest of the iconic *Peanuts* comic strip, and Finnish-American John Morton signed the Declaration of Independence.

Today, we take pride in our strong relationship with the Nordic countries. In 2016, we exported $11 billion in goods to the Nordics, and our trading partnerships in the region are only growing stronger. The Nordics are also staunch allies in the war on terrorism and are valued members of the Global Coalition to Defeat the Islamic State of Iraq and Syria. We share in their sorrow from suffering caused by terrorists in places like Turku, Stockholm, and Oslo. We stand together with the Nordic people in solidarity against the threat of terrorism. As we strive for peace, prosperity, and security, we will work to ensure that our relationship with the Nordic countries continues to reflect the indomitable spirit of Leif Erikson.

To honor Leif Erikson and celebrate our Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President of the United States to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 9, 2017, as Leif Erikson Day. I call upon all Americans to celebrate the achievements and contributions of Nordic Americans to our Nation with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–22424
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